

1 APPELLATE COURT NO. 71595
2 IN THE COURT OF CRIMINAL APPEALS
3 OF THE STATE OF TEXAS
4 AT AUSTIN

5
6 RICK ALLAN RHOADES,

7 Appellant

8 VS.

9 THE STATE OF TEXAS,

10 Appellee.

11
12 APPEAL FROM 179TH DISTRICT COURT OF HARRIS COUNTY,
13 TEXAS

14 Judge J. Michael Wilkinson Presiding
15

16
17 STATEMENT OF FACTS
18 VOLUME XXVIII OF 40 VOLUMES
19
20
21

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25 Houston, Texas 77002

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1 CAUSE NO. 612408

2 STATE OF TEXAS IN THE 179TH DISTRICT COURT
3 VS. OF

4 RICK ALLAN RHOADES HARRIS COUNTY, T E X A S
5

6 A P P E A R A N C E S:

7 For the State: Ms. Carol Davies
8 Ms. Claire Connors
Assistant District Attorneys
9 Harris County, Texas

10 For the Defendant: Mr. James Stafford
Ms. Deborah Kaiser
11 Attorneys at Law
Houston, Texas
12

13 BE IT REMEMBERED that upon this the
14 29th day of September A.D. 1992, the above
15 entitled and numbered cause came on for
16 continued trial before the Honorable J. Michael
17 Wilkinson, Judge of the 179th District Court of
18 Harris County, Texas, and a jury; and the State
19 appearing by counsel and the Defendant appearing
20 in person and by counsel, the following
21 proceedings were had, viz:
22
23
24
25

1 (Witnesses sworn and admonished as to
2 the rule).

3 (The jury enters the courtroom)

4 FRANK LOPEZ

5 was called as a witness by the State and, having
6 been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. DAVIES:

9 Q. Tell us your name, please.

10 A. Frank Lopez. I am a police officer.

11 Q. With what agency?

12 A. Pasadena School District Police
13 Department.

14 Q. Pasadena School District?

15 A. School district.

16 Q. What is your responsibility? Is it
17 limited to problems within the school in
18 Pasadena?

19 A. No, our primary function is patrol all
20 the school district.

21 Q. Within the area?

22 A. Within our district, right.

23 Q. How long have you been employed there?

24 A. Eight years.

25 Q. Were you on duty back on October 11th

1 of 1991?

2 A. Yes, I was.

3 Q. I want you to think back to that day,
4 October 11th, 1991. Do you recall what shift
5 you were working?

6 A. I was working the night shift.

7 Q. What hours did that include?

8 A. Eleven to seven. Eleven p.m. to seven
9 a.m.

10 Q. While you were on duty, did you have
11 an occasion to go to the Young Elementary School?

12 A. Yes, I did.

13 Q. Where is that located?

14 A. In the I believe 4200 block of
15 Foxmeadow.

16 Q. Is that in Harris County, Texas?

17 A. Yes, it's in the City of Pasadena.

18 Q. How was it that you happened to go to
19 the Young Elementary School?

20 A. I was dispatched to that location on a
21 burglary alarm.

22 Q. When you say an alarm, how do you
23 receive word that there is an alarm at that
24 particular location?

25 A. We get it through our dispatcher who

1 receives the call from ULtra Security who
2 monitors the alarm system at all the schools.

3 Q. So you were dispatched to that
4 school. Do you recall about what time that was?

5 A. 12:45 a.m.

6 Q. That Young Elementary School, are you
7 familiar with the layout of that school?

8 A. Yes, I am.

9 Q. As you approach the school, did you
10 direct your attention to any particular location
11 in the school?

12 A. Yes, I responded to the southeast
13 corner, second grade classroom.

14 Q. Now, as you arrived, how was it that
15 you knew to focus on that second grade class
16 room in the southeast corner?

17 A. I was advised by the dispatcher that
18 is where the intrusion alarm was sounding at.

19 Q. When you say the alarm was sounding,
20 is that one of these alarms like goes off in my
21 neighborhood that makes a good racket?

22 A. No, they are silent alarms.

23 Q. Were you working alone at that time?

24 A. Yes, I was.

25 Q. In uniform?

1 A. Yes.

2 Q. Were you in a marked patrol car?

3 A. Yes, I was.

4 Q. When you arrived at Young Elementary
5 School, what did you do?

6 A. Upon arrival, I went to the area where
7 the alarm was at. I approached the exterior
8 door going into the classroom.

9 Q. This is on the southeast corner?

10 A. On the southeast corner of the
11 building.

12 Q. As you approached the door, did you
13 see anything?

14 A. As I approached the door and went to
15 open the door, there was a subject on the inside
16 reaching for the door also to come out.

17 Q. Can you describe that door for us? Is
18 it a solid door or is there some way you can see
19 who is on the other side of the door?

20 A. It's an exterior door that has view
21 glass where you can see inside the room.

22 Q. Is that how you were able to see there
23 was someone on the other side of that door?

24 A. Yes.

25 Q. Near that doorway on that building

1 were there any windows?

2 A. Yes, there is windows on both sides of
3 the door, around the door, rather.

4 Q. Right next to the doorway?

5 A. Yes.

6 Q. When you realized there was someone
7 inside the building -- by the way, let me back
8 up. Was the school open at that hour?

9 A. No.

10 Q. What did you do when you saw that
11 there was someone on the other side of that
12 door?

13 A. I immediately retreated back to the
14 corner of the building where it was safe for me
15 and hollered at the subject to come out of the
16 building.

17 Q. What happened?

18 A. I got no response right away.

19 Q. So what did you do?

20 A. I temporarily lost sight of him
21 because of the door. So I went to -- directly
22 across there is a column on the outside of the
23 building. I moved to the column so I could get
24 a better view inside the door or through the
25 view glass.

1 Q. Were you able to see through that view
2 glass?

3 A. Yes.

4 Q. What did you see?

5 A. At that point I couldn't see anything
6 but a portion of the room.

7 Q. What room was it that you were seeing
8 into?

9 A. It's a second grade classroom. It's a
10 very large room.

11 Q. Is that an open, they refer to it as
12 an open concept teaching area in that school?

13 A. Yes.

14 Q. What did you do next?

15 A. I continued to order the subject out,
16 which eventually he did come out.

17 Q. When you say you were ordering him
18 out, how did you go about doing that?

19 A. Identified myself as a police officer,
20 told him to come on out of the building.

21 Q. Conversational tone of voice?

22 A. No, very loud, aggressive sounding
23 voice.

24 Q. Okay. Did you get a response?

25 A. Yes, after a couple of minutes he

1 walked out of the door.

2 Q. Out that same door that you had just
3 seen him by?

4 A. Yes.

5 Q. Can you describe for us the person who
6 walked through that door?

7 A. The gentleman sitting right here to
8 your right. He is in a plaid shirt.

9 Q. In the plaid shirt here in the
10 courtroom?

11 A. With no tie.

12 MS. DAVIES: Your Honor, may the
13 record reflect the witness has identified the
14 defendant?

15 THE COURT: It will.

16 BY MS. DAVIES:

17 Q. Did he just walk out?

18 A. Yes, he came out as ordered.

19 Q. How far out the door did he walk or
20 how far outside the building was it that you
21 first came into physical contact with this
22 defendant?

23 A. Approximately three feet outside the
24 doorway.

25 Q. What did you do?

1 A. I ordered the subject to the ground,
2 to lay face down on the ground, at which time he
3 did comply.

4 Q. What was your purpose in telling him
5 to get down on the ground?

6 A. For his safety and mine, to take him
7 into custody.

8 Q. Did he do that?

9 A. Yes, he did.

10 Q. Did you handcuff the man?

11 A. Yes, ma'am.

12 Q. Now, as you arrested him, at some
13 point did you have an opportunity to check
14 inside the building to see whether everything
15 was intact?

16 A. Yes, I did.

17 Q. Did you do that before or after you
18 arrested this defendant?

19 A. Afterwards.

20 Q. What did you see when you checked
21 inside the building?

22 A. There was a -- I found a blue bag
23 inside the door, blue nylon bag.

24 Q. How far inside the door?

25 A. Just inside the door to the right of

1 the door.

2 Q. And you are talking about this
3 entrance door where you had first seen the
4 defendant on the other side of the door?

5 A. Yes.

6 Q. Describe that blue bag for us, if you
7 can.

8 A. It's a large nylon blue bag
9 approximately two and a half feet wide, maybe
10 two feet deep if it was expanded out, with a
11 blue leather strap or nylon strap.

12 Q. Was there anything in the bag?

13 A. Yes. VCR and a multi channel laser
14 disk player.

15 Q. Are you familiar with the layout of
16 the second grade classroom?

17 A. Yes, I am.

18 Q. Did you look to see whether you could
19 tell where that VCR and disk player may have
20 come from?

21 A. Yes, I did.

22 Q. What did you see?

23 A. I found the TV cart in the southern
24 center side of the room where the VCR was
25 normally located was missing from that

1 location. Then I found the table in the center
2 portion on the west side of the room, there was
3 a like a TV cart again with nothing there.

4 Q. Did it appear those items may have
5 been removed from the location that you
6 described?

7 A. Yes, it did.

8 Q. Did you look to see whether you could
9 determine how entrance had been gained into the
10 school?

11 A. Yes, I did.

12 Q. Is the school ordinarily locked at
13 that hour?

14 A. Yes.

15 Q. Were you able to determine how this
16 defendant had gotten into the school?

17 A. Yes, I was.

18 Q. What did you determine?

19 A. He broke out a window, reached in and
20 unlocked the window.

21 Q. Did you see the broken window?

22 A. Yes, I did.

23 Q. Where was it?

24 A. It was approximately five feet from
25 the door, to the right of the door.

1 Q. Close enough that one could reach in
2 and open the door from the inside?

3 A. No.

4 Q. Was the opening in the window large
5 enough for somebody to crawl through?

6 A. No.

7 Q. So how did you figure out that he got
8 in through that broken window?

9 A. Well, the window was unlocked when I
10 checked it, and then after I had arrested the
11 subject and Mirandized him he told me how he got
12 into the building.

13 Q. Was the shape, the type of window
14 such, that once it was broken, one could reach
15 in and unlock the window in order to make a
16 larger opening?

17 A. Yes.

18 Q. Did you examine the disc player and
19 VCR to determine whether there were any
20 identifying marks on those items?

21 A. Yes, I did.

22 Q. Can you tell us, describe in a little
23 more detail the brand and any identifying
24 markings that might have been on those? First
25 the disc player.

1 A. The disc player was Panasonic multi
2 laser disc player model number LX120. And the
3 serial number on it was DA1263836. The disc
4 player also carried a fixed asset number that is
5 assigned by the school district itself.

6 Q. All right. You are familiar with the
7 labeling of the Pasadena School District of
8 their property with those fixed asset numbers?

9 A. Yes.

10 Q. What was the fixed asset number on
11 that disc player?

12 A. 59199.

13 Q. What about the VCR, what type, what
14 brand was it?

15 A. The VCR was a Sharp VCR model XA305.

16 Q. Do you know the serial number?

17 A. 009324281.

18 Q. Did it have a Pasadena school district
19 fixed asset?

20 A. Yes. 56027.

21 Q. Did you retain those items as evidence
22 in this case?

23 A. Yes, I did.

24 Q. Were those items ultimately turned
25 back over to the Young Elementary School?

1 A. Yes, they were.

2 Q. Officer Lopez, after you arrested this
3 defendant, did you make any inquiry of him as to
4 what his name was?

5 A. Yes, I did.

6 Q. And what did he tell you?

7 A. He identified himself to me as Steven
8 Ray Leland.

9 Q. Steven Ray Leland?

10 A. Yes, ma'am.

11 Q. Did he give you a date of birth?

12 A. At that time, he gave me 4/12/69.

13 Q. Four, twelve of '69. Since you had
14 arrested this defendant in connection with the
15 burglary -- by the way, did you have any
16 involvement whatsoever in the investigation of
17 the killing of the Allen brothers?

18 A. No, I didn't.

19 Q. Back a month earlier. Did you give
20 this defendant any warnings out there when you
21 arrested him at the Young Elementary School?

22 A. Yes, I did. I read him the Miranda
23 warnings.

24 Q. You say Miranda warnings, is that what
25 you police officers refer to those?

1 A. The constitutional warnings.

2 Q. Okay. Would you tell the jury exactly
3 what it was that you told this defendant his
4 rights were?

5 A. I can read it off the card.

6 Q. Is that the way you did it that night?

7 A. Yes, ma'am.

8 Q. Do you carry a card with you for that
9 purpose?

10 A. Yes.

11 Q. Do you have it with you today?

12 A. Yes, I do.

13 Q. Is that the card that you read from
14 when you read the rights to this defendant?

15 A. Yes, it is.

16 Q. Tell the jury exactly what it was you
17 told him.

18 A. You have the right to remain silent
19 and not make any statement and that any
20 statement you make may be used against you and
21 probably will be used against you at your
22 trial. Any statement may be used as evidence
23 against you in court. You have the right to
24 have an attorney present to advise you prior to
25 and during any questioning. If you are unable

1 to employ a lawyer, you have the right to have a
2 lawyer appointed to advise you prior to and
3 during any questioning. You have the right to
4 terminate this interview at any time.

5 Q. When you read those warnings to this
6 defendant, did he make any response whatsoever?

7 A. Yes, he did. And he agreed to talk to
8 me.

9 Q. Did he give any indication that he
10 didn't understand his rights?

11 A. No.

12 Q. Did he ask for an attorney?

13 A. No.

14 Q. In fact, you say you did have some
15 conversation with him out there. Did he appear
16 to understand and communicate?

17 A. Yes, he did.

18 Q. In an intelligent manner?

19 A. Yes.

20 Q. Did he appear to be intoxicated at
21 that time?

22 A. No.

23 Q. So what did you do after you had read
24 this defendant his warnings and determined,
25 thought you determined his identity, what did

1 you do with him?

2 A. After I talked with him, I then
3 released him from my custody to the custody of
4 the Pasadena police officer Robert Cissel.

5 Q. Where did that take place?

6 A. On the side of the school.

7 Q. At what point did this other officer
8 show up at Young Elementary?

9 A. Approximately three to five minutes.

10 Q. After you had arrived?

11 A. Right.

12 Q. After you turned this defendant over
13 to Officer Cissel, did you have any further
14 contact with him?

15 A. No.

16 Q. And what was your purpose in turning
17 him over to Officer Cissel?

18 A. The school -- I needed to stay there
19 for further investigation at the school, and I
20 released him to Officer Cissel to be transported
21 to the city jail.

22 Q. You mentioned that you did some
23 further investigation at the school. Let me ask
24 you about that. Did you look around in that
25 second grade teaching area to observe the

1 condition?

2 A. Yes, I did.

3 Q. Tell the jury what it is you saw.

4 A. Several of the cabinets, storage
5 cabinets were open. There were some books
6 scattered on the floor, a couple of teachers
7 desk drawers were open.

8 Q. I think you have already described
9 some TV carts or shelves in there?

10 A. Right.

11 Q. Did it appear that there was anything
12 missing from those locations?

13 A. Just on the two TV carts.

14 Q. Let me show you what I have marked for
15 identification purposes as State's Exhibit 55.
16 You have identified the defendant here in the
17 courtroom today. Was his physical appearance
18 any different in terms of haircut or facial hair
19 back when you arrested him?

20 A. Yes, it was.

21 Q. Is State's Exhibit 55 an accurate
22 depiction of his appearance when you arrested
23 him on October 11th?

24 A. Yes.

25 Q. I also want to show you what I have

1 marked as State's Exhibit 56. Ask you if you
2 recognize that item?

3 A. Yes, I do.

4 Q. State's Exhibit 56, at a future date
5 after October 11th, did you come into possession
6 of State's Exhibit 56?

7 A. Yes, I did.

8 Q. And how did that happen?

9 A. One of my patrolmen, day shift patrol
10 officers called back to Young Elementary. At
11 that point in time it was discovered they found
12 the item behind a poster I believe.

13 Q. And this was approximately what date?

14 A. 5/27/92.

15 Q. Was State's Exhibit 56 then turned
16 over to you by that officer?

17 A. Yes, it was.

18 Q. Who was that?

19 A. Cliff O'Quinn.

20 MS. DAVIES: Your Honor, at this time
21 I am tendering State's 55 and 56 to defense
22 counsel and offer them into evidence.

23 MR. STAFFORD: I object to number 55,
24 Your Honor.

25 THE COURT: Let me see it.

1 MR. STAFFORD: As to the relevancy.
2 Since identification has never been in issue. I
3 have no objection to 56.

4 THE COURT: That is your only
5 objection to?

6 MR. STAFFORD: Relevancy. Has no
7 relevancy in this matter.

8 THE COURT: Approach the bench.

9 (Off-the-record bench conference)

10 THE COURT: All right, for the record,
11 State's Exhibit 55 is being withdrawn at this
12 time.

13 Regarding State's Exhibit 56, was
14 there an objection to 56?

15 MR. STAFFORD: No.

16 THE COURT: State's Exhibit 56 is
17 admitted.

18 BY MS. DAVIES:

19 Q. Let me show you 55-A. Is this also an
20 accurate depiction of the defendant as he
21 appeared when you arrested him?

22 A. Yes.

23 MS. DAVIES: Tender 55-A.

24 MR. STAFFORD: No objection.

25 THE COURT: No objection to 55-A?

1 MR. STAFFORD: No.

2 THE COURT: State's Exhibit 55-A is
3 admitted.

4 BY MS. DAVIES:

5 Q. Let me call your attention again to
6 State's Exhibit 56. Can you tell the jury what
7 that is?

8 A. It's a Texas Department of Corrections
9 inmate ID card.

10 Q. And is there a photograph on that
11 card?

12 A. Yes, there is.

13 Q. Do you recognize the person on that
14 photograph?

15 A. Yes, I do.

16 Q. Who is it?

17 A. The defendant.

18 Q. Can you tell us what name is on that
19 ID card?

20 A. David Allan Marcas.

21 Q. What is the date of birth?

22 A. 4/10/62

23 THE COURT: Spell the last name.

24 Q. M-a-r-c-a-s.

25 MS. DAVIES: Your Honor, I would ask

1 that State's Exhibits 55-A and 56 be passed to
2 the jury.

3 THE COURT: You may.

4 CROSS EXAMINATION

5 BY MR. STAFFORD:

6 Q. Well, in fact, officer, as you have
7 been on this case, it has come to your attention
8 that my client has used several aliases when he
9 has been dealing with the police from time to
10 time; hasn't he?

11 A. Yes, he has.

12 Q. I think a matter of four or five
13 different names?

14 A. I believe so.

15 Q. And often the reason this is done is
16 that if I get caught and go to prison I get less
17 time if they don't know about my enhancement
18 paragraphs?

19 MS. DAVIES: I object to speculation
20 as to why.

21 THE COURT: Sustained.

22 BY MR. STAFFORD:

23 Q. But, anyway, back on this particular
24 day, it would be safe to say I think what you
25 told the prosecutor is that when you got Mr.

1 Rhoades in custody it was apparent that he was
2 not intoxicated; was he?

3 A. No, sir.

4 Q. He wasn't under the influence of
5 drugs, nothing to indicate that he was taking
6 drugs. He appeared to be rational and of sound
7 mind?

8 A. Yes.

9 Q. And you told the jury that when you
10 placed him in, I mean, when you first approached
11 that door, that once you observed someone in
12 there, you went over to the southeast corner?

13 A. Yes.

14 Q. And in that length of time if someone
15 had wanted to -- and I think you told me
16 previously he had ample opportunity to escape or
17 run through the building if he had wanted to?

18 A. Yes.

19 Q. Is that correct? And that was not the
20 only door in that schoolhouse; was it?

21 A. No.

22 Q. So there would have been plenty of
23 chances for him to escape if he wanted to. And
24 I think you have already told the jury, that
25 when you got him into custody, he cooperated

1 with you and, for example, once you got him on
2 the ground and handcuffed, he was totally
3 cooperative?

4 A. Yes.

5 Q. And polite to you?

6 A. Yes.

7 Q. And did what you told him to do?

8 A. Yes.

9 Q. One other thing. When you placed him
10 in custody, you did not find any weapons on him;
11 did you?

12 A. No.

13 MR. STAFFORD: I have no other
14 questions.

15 REDIRECT EXAMINATION

16 BY MS. DAVIES:

17 Q. When you realized someone was on the
18 other side of that door and you started yelling
19 for them to come out, were you armed?

20 A. Yes, I was.

21 Q. Did you draw your weapon?

22 A. Yes, I did.

23 Q. When this defendant came out from that
24 door, was your weapon drawn?

25 A. Yes, it was.

1 Q. In such a manner that he was able to
2 see that you were holding a gun on him?

3 A. Yes.

4 MS. DAVIES: Pass the witness.

5 RECROSS EXAMINATION

6 BY MR. STAFFORD:

7 Q. When he was inside, you can't tell
8 this jury he knew you had your gun drawn?

9 A. No.

10 MR. STAFFORD: No other questions.

11 THE COURT: Anything else? Any
12 objection to this witness being excused, Mr.
13 Stafford?

14 MR. STAFFORD: No.

15 MS. DAVIES: Subject to recall.

16 THE COURT: You are excused.

17 Call your next.

18 MS. DAVIES: Steve Brown.

19

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22

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1 STEVE BROWN
2 was called as a witness by the State and, having
3 been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. DAVIES:

6 Q. Tell us your name, please.

7 A. Officer Steve Brown.

8 Q. You might need to adjust the
9 microphone just a little, Officer Brown.

10 Was it Steve Brown?

11 A. Yes, ma'am.

12 Q. How are you employed?

13 A. City of Pasadena Police Department.

14 Q. How long have you been with Pasadena
15 Police Department?

16 A. Eight years.

17 Q. What is your present assignment?

18 A. Patrol officer day shift.

19 Q. Back on October 11th of 1991, were you
20 working patrol shift then?

21 A. Yes, ma'am, I was.

22 Q. Do you recall whether you were on duty
23 on that day, that Friday, October 11th, 1991?

24 A. Yes, ma'am, I was.

25 Q. Where were you working that day?

1 A. I was assigned to the jail.

2 Q. When you say you were assigned to the
3 jail, what are your duties under that assignment?

4 A. Taking care of all the inmates.

5 Q. Did you have an occasion to meet with
6 an inmate there at the Pasadena jail by the
7 name, as far as you knew, the name of Steven
8 Leland?

9 A. Yes, ma'am, I did.

10 Q. What happened to cause you to come in
11 contact with Steven Leland?

12 A. The doors in the back, a lot of the
13 inmates sometimes bang on the door when they
14 need the attention of the jailer. At that time
15 of day he was knocking on the door, and I went
16 back there to see if maybe he was hurt or if he
17 needed to talk to somebody.

18 Q. You say at that time of day. Do you
19 remember what time of day it was?

20 A. I am not real sure exactly what time
21 of day. It was before two o'clock.

22 Q. Before 2:00 p.m.?

23 A. Yes, ma'am.

24 Q. Why is it you know it was before 2:00 p.m.?

25 A. Two p.m. is my end of duty.

1 Q. You said you heard a noise or banging
2 sound; is that correct?

3 A. Yes, ma'am, metal doors.

4 Q. So what did you do?

5 A. I went back there to see what he
6 needed or if he was sick or ill, and that is
7 when I contacted him inside the cell.

8 Q. He was actually in a cell?

9 A. Yes, ma'am, he was.

10 Q. Do you recall whether there was anyone
11 in that cell with him?

12 A. No, ma'am, I don't recall.

13 Q. The person who was banging on the
14 door, were you face to face with them and have a
15 conversation?

16 A. Yes, ma'am, I did.

17 Q. Do you see that person here in the
18 courtroom today?

19 A. Yes, ma'am, I do.

20 Q. Would you point him out for us?

21 A. Yes, the defendant sitting at this
22 table.

23 Q. Are you referring to the man here in
24 the plaid shirt?

25 A. Yes, ma'am, I am.

1 MS. DAVIES: May the record reflect
2 this witness has identified the defendant?

3 THE COURT: It will.

4 BY MS. DAVIES:

5 Q. When you went back there, at that
6 point what did you believe this defendant's name
7 to be?

8 A. The one that he was booked in on,
9 Steven Leland, I believe.

10 Q. And did you learn what it was that he
11 was trying to attract your attention for?

12 A. Yes, ma'am.

13 Q. Did he tell you?

14 A. Yes, ma'am, he said he needed to speak
15 to a detective about some murder.

16 Q. Did you ask the defendant any details
17 or any questions about the murder he was
18 referring to?

19 A. No, ma'am, I did not.

20 Q. What did you do?

21 A. Shortly after, I contacted Lieutenant
22 Goad, who is over the detective division, and
23 told him there was an inmate that needed to
24 speak to a detective about some murder.

25 Q. When the defendant told you he wanted

1 to talk to somebody about some murder, did you
2 tell him you would pass that word on?

3 A. Yes, ma'am, I did.

4 Q. Can you describe for the jury what his
5 manner or demeanor was there in his cell when he
6 told you he wanted to talk to somebody?

7 A. He appeared very nervous and I recall
8 very sweaty at the time.

9 Q. Was he crying or emotional?

10 A. No, ma'am, didn't appear to be.

11 Q. Was that the extent of your
12 involvement with this defendant?

13 A. Yes, ma'am, I believe it was.

14 MS. DAVIES: Pass the witness.

15

16 CROSS EXAMINATION

17 BY MR. STAFFORD:

18 Q. So he appeared to you very nervous,
19 sweaty. Didn't come across to you cocky at all;
20 did he? He wanted to give some information?

21 A. Yes, sir, he appeared very nervous.

22 Q. Could you tell the jury what time do
23 you come on duty?

24 A. Six o'clock in the morning.

25 Q. Six o'clock. If this is an accurate

1 booking photo made at your police agency that
2 looks like he was being booked in around 6:15;
3 is that correct? Or am I reading that clock
4 wrong?

5 A. It looks to be about 8:15.

6 Q. 8:15?

7 A. Yes, sir.

8 Q. How long does your booking process
9 take?

10 A. Usually takes about ten minutes.

11 Q. Is that your responsibility?

12 A. Sometimes it is, yes, sir.

13 Q. But you don't recall you booked in Mr.
14 Rhoades?

15 A. No, sir, I did not.

16 Q. Okay. And, in fact, the banging on
17 the lock up door, as you have already told the
18 jury, there is nothing unusual about that
19 because that is their means to get your
20 attention to communicate with them?

21 A. Yes, it is.

22 Q. At that particular time, there is
23 nothing in your records or the Pasadena police
24 records that would indicate that Mr. Rhoades was
25 under the influence of drugs or drunk or

1 anything of that nature; is there?

2 A. No, sir.

3 Q. And actually that was just a holding
4 cell before y'all transported him to the Harris
5 County jail; was it not?

6 A. Yes, sir.

7 Q. Normally how long do you keep your
8 prisoners there before they are transported?

9 A. Just depends on when the warrant comes
10 back from the DA'S office, six to eight hours.

11 Q. When you went down to answer the
12 banging on the door which was there to get your
13 attention, did you, in fact, when you saw Mr.
14 Rhoades, did you even know who he was? Did you
15 even know his name?

16 A. No, sir, not at that time I did not.

17 Q. Did you make a note or something in
18 writing that he had some information that he
19 wanted to pass along?

20 A. No, sir. I asked him his name. I
21 went back and looked up his chart and called the
22 detective division.

23 Q. And it would be true or safe to say,
24 is it not, that when he informed you of this he
25 didn't say I want to trade off something for a

1 lighter sentence, or he didn't try to make any
2 deals; did he?

3 A. No, sir.

4 Q. Said he had some information he wanted
5 to pass on?

6 A. Yes, sir.

7 MR. STAFFORD: I pass the witness.

8 MS. DAVIES: May the witness be
9 excused?

10 THE COURT: What was the lieutenant's
11 name?

12 A. Goad.

13 THE COURT: You may stand down.
14 Call your next.

15 MS. DAVIES: H. W. Butler.

16 (The following proceedings were had at
17 the bench:)

18 MR. STAFFORD: For purposes of the
19 record, this is the detective that came and
20 talked to my client in reference to this double
21 killing. I am contending under 38.22 he was in
22 custody. And during the course of the
23 conversation, the police officer, starting on
24 page 78 of a transcript of his testimony from
25 motion to suppress the confession the court

1 reporter has previously prepared for us in this
2 trial, I will introduce this thing for a exhibit
3 for this purpose only, the officer asked:

4 "Question: What did you do then?"

5 Starting on line 24.

6 Line 25 is the answer: "I asked him to
7 tell me something about the incident that would
8 lead me to believe that he really and truly had
9 information pertaining to the case."

10 Then the question: "What is the
11 purpose of doing that?"

12 "Answer: Just to find out if he does
13 have some information pertinent to the
14 investigation or if he is just trying to offer
15 worthless information to get out of jail.

16 "Question: How did the defendant
17 respond?"

18 "Answer: He told me that one of the
19 subjects had his wallet taken and that there had
20 been some money taken out of the wallet."

21 "Question: Did he say how much money?"

22 "Answer: I believe he said one
23 hundred and sixty dollars had been taken from
24 the wallet."

25 I object to all of that testimony as

1 being an in-custody statement. It was made
2 directly in response to interrogation or
3 questions asked by this fine officer, and I
4 don't know of any grounds under the Code of
5 Criminal Procedure or the rules of evidence that
6 it would be admissible in this particular case.
7 And I ask the Court to not allow this
8 information or this testimony as referred to on
9 pages 78 and 79.

10 THE COURT: All right. Does the State
11 wish to respond? As I recall, I previously
12 heard this officer testify on September 8, 1992,
13 my recollection was that this was a Pasadena
14 detective, not the Houston police detective but
15 Pasadena police detective who went to the
16 defendant in jail to see exactly why he needed
17 to talk to somebody, having already indicated to
18 Officer Brown, who previously testified, that he
19 wanted to talk to some detective. That this
20 witness, Detective Butler, didn't even know
21 about the commission of the double murder which
22 is the subject of this capital murder offense on
23 trial. That the investigation certainly had not
24 focused on this defendant by that time and that
25 he was meaning to ascertain what kind of

1 information the defendant had that he wanted to
2 impart to other detectives. That is how I
3 remember what happened.

4 Do you want to put something on the
5 record?

6 MS. DAVIES: I think the recollection
7 is accurate. I object to the fact that the
8 highlighted portion in Mr. Stafford's transcript
9 as not being the only relevant portions. I
10 think the record will speak for itself. You
11 have to look at the entire context and content
12 of this detective's testimony as the Court had
13 obviously been doing. He wasn't interrogated
14 for incriminating -- this witness was not
15 interrogating for incrimination information. He
16 didn't even know what crime had been committed
17 or what the man was talking about.

18 THE COURT: It is my recollection he
19 didn't know the man's name. He knew him as
20 somebody else. He asked questions regarding his
21 name for identification purposes. As I recall
22 from the previous testimony regarding focus of
23 this case, when the defendant told him about the
24 murder of those brothers, this detective
25 obviously knew nothing about this case because

1 he assumed the defendant was talking about two
2 black people having been killed, and he was
3 asking some of this information to give to
4 whoever might be investigating the case.
5 Certainly the investigation of the murder of the
6 Allen brothers had not in any way focused on
7 this defendant at that time.

8 MS. DAVIES: I have to agree with the
9 court's analysis. The record of the previous
10 hearing speaks for itself. Just because the
11 conversation includes comments that may have a
12 question mark at the end does not mean that that
13 rises to the level of interrogation.

14 MR. STAFFORD: Judge, we can waltz
15 with this or play the cha-cha, however we want
16 to do it, but the bottom line is I will
17 stipulate that my client contacted and wanted to
18 talk to the detective. My remembrance of this
19 conversation is this detective shows up, my
20 client says, "You are not the detective I need
21 to talk to, I need to talk to the detective in
22 charge." This guy kept pumping him for
23 information. He immediately told him I know
24 something about the Allen brothers killing, and
25 then from there he got into a custodial

1 interrogation, and, finally, he told this
2 officer, "I don't need to talk to you anymore, I
3 need to talk to the detective in charge."
4 Basically right here.

5 THE COURT: That is not how I remember
6 it fully. The record will speak for itself.

7 MR. STAFFORD: Do you overrule my
8 objection?

9 THE COURT: Yes, sir.

10 (The following proceedings were had
11 before the jury:)

12 H. W. BUTLER
13 was called as a witness by the State and, having
14 been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. DAVIES:

17 Q. Please tell us your name for the
18 record.

19 A. H. W. Butler.

20 Q. How are you employed?

21 A. I am a detective with the Pasadena
22 Police Department.

23 Q. What division of the Pasadena police
24 are you assigned?

25 A. Detective division.

1 Q. How long have you been with the
2 Pasadena Police Department?

3 A. Twenty-six years.

4 Q. And you have been a detective for how
5 many years?

6 A. About four years.

7 Q. Were you on duty there on Friday,
8 October 11th, 1991?

9 A. Yes, ma'am.

10 Q. Did you have an occasion to go to the
11 Pasadena jail on that day?

12 A. Yes, ma'am.

13 Q. Why did you happen to do that?

14 A. I was approached by my supervisor,
15 Lieutenant Goad, and he advised me that a
16 subject by the name of Steven Ray Leland was in
17 custody in jail and that this subject had some
18 information he wanted to talk with a detective
19 about.

20 Q. At that point, Detective Butler, did
21 you know what case Steven Leland had information
22 on?

23 A. The lieutenant told me it was a
24 case--.

25 MR. STAFFORD: Object to hearsay, what

1 the lieutenant told him.

2 THE COURT: Sustained.

3 BY MS. DAVIES:

4 Q. After you received word that Steven
5 Leland might have information, what did you do?

6 A. I went to the jail.

7 Q. Did you look up Steven Ray Leland?

8 A. Ma'am?

9 Q. Did you look up Steven Ray Leland in
10 jail?

11 A. Yes, ma'am.

12 Q. Where was he?

13 A. He was in a cell by himself.

14 Q. Do you see that person here in the
15 courtroom?

16 A. Yes, ma'am.

17 Q. Can you identify him?

18 A. Yes, ma'am, seated at the table
19 wearing long-sleeve white shirt.

20 Q. The shirt with the plaid?

21 A. Yes.

22 MS. DAVIES: May the record reflect
23 that this witness has identified the defendant?

24 THE COURT: It will.

25

1 BY MS. DAVIES:

2 Q. At the point that you approached this
3 defendant in his cell, did you know what case it
4 was that you were going over there to inquire
5 about?

6 A. Yes, ma'am.

7 Q. Did you have a conversation with this
8 defendant?

9 A. Yes, ma'am.

10 Q. Who spoke first?

11 A. I spoke first.

12 Q. What did you say?

13 A. I asked him if he was Steven Ray
14 Leland.

15 Q. How did he respond?

16 A. He said, "No, that is not my real
17 name."

18 Q. What did he tell you his name was?

19 A. Ricky Rhoades. Rick Rhoades.

20 Q. Rick Rhoades. At that point, did you
21 ask for a date of birth or anything?

22 A. Yes, ma'am. I asked him for a date of
23 birth. He also volunteered at that time that he
24 had been in the pen under the name of David
25 Marcas.

1 Q. Did he give you a date of birth for
2 the name Rick Rhoades?

3 A. Yes, ma'am.

4 Q. Do you recall what that was?

5 A. I believe it was the fourth, ten of --
6 the year was '64. I am not sure of the day and
7 the month.

8 Q. Okay. What case was it that you
9 thought you were going to talk to this man
10 about?

11 A. I asked him if he had information
12 pertaining to a case involving a murdered deputy
13 sheriff.

14 Q. That was what you had in mind when you
15 walked over there?

16 A. Yes, ma'am.

17 Q. At that point, did you even know
18 anything about the killing of the Allen brothers
19 that had happened in September?

20 A. No, ma'am.

21 Q. Any reason why you might have missed
22 hearing that?

23 A. I believe I was out of town when the
24 offense occurred.

25 Q. So did you ask this defendant about

1 the killing of some deputy?

2 A. Yes, ma'am.

3 Q. What was his reaction?

4 A. He told me he didn't know what I was
5 talking about.

6 Q. Did he volunteer any other
7 information?

8 A. Yes, ma'am. He said he was talking
9 about the two brothers that had been killed off
10 of Mize Street three or four weeks ago.

11 Q. When he said that, did you immediately
12 recognize what case he was talking about?

13 A. No, ma'am, I still didn't know what he
14 was talking about.

15 Q. So what did you do?

16 A. I asked him if in fact the two
17 brothers had been killed. And he replied yeah.

18 Q. Did he say anything else?

19 A. No, ma'am. I then asked him if he
20 knew who killed the two brothers.

21 Q. What was his reaction?

22 A. He laughed and said, "Yeah, I know."

23 Q. How would you describe his demeanor
24 and attitude as you were talking to him at that
25 point?

1 A. Cocky.

2 Q. So what did you do next?

3 A. I asked him if he could tell me
4 something about the offense.

5 Q. What was the reason for doing that?

6 A. To see if he really had information
7 that would help in the investigation.

8 Q. Did you have any idea what information
9 might be incriminating or helpful in that?

10 A. No, ma'am, I did not.

11 Q. Given the information that you had at
12 that point, did you know what case to track
13 down, who to call?

14 A. No, ma'am, not at that point.

15 Q. Did the defendant offer any additional
16 information to assist you in doing that?

17 A. Yes, ma'am. He told me one of the
18 victims wallet was missing and it was one
19 hundred and sixty dollars taken from it.

20 Q. At this point, did you recognize or
21 had anything been said to indicate that this
22 defendant was the person who had committed the
23 crime?

24 A. No, ma'am.

25 Q. Did he tell you anything else to help

1 identify?

2 A. Yes, ma'am, he then told me that one
3 of the victims was alive when, quote, he left,
4 meaning whoever was at the scene.

5 Q. All right. Did he tell you anything
6 else to identify the case?

7 A. He told me one more thing. He said
8 one of the victims had been beaten with a weight
9 bar in the area of the head.

10 Q. Did he tell you anything more?

11 A. No, ma'am. At that point, I
12 recollected the case that he was talking about,
13 and at that point he said he didn't want to talk
14 to me anymore.

15 Q. Did he indicate whether he did want to
16 talk to anybody else?

17 A. Yes, ma'am. He said he wanted to talk
18 to the detectives that were assigned to that case.

19 Q. What did you do?

20 A. I left the jail area and went upstairs
21 and attempted to locate the case information,
22 case number with HPD and what detectives were
23 assigned the case.

24 Q. Did you actually talk directly to the
25 detectives who you learned were handling the

1 case?

2 A. No.

3 Q. What did you do to make contact with
4 them?

5 A. My shift was ending about four
6 o'clock, and Sergeant Massey was working the
7 evening shift that day. I gave all this
8 information to him, and I emphasized that he
9 needed to find these two detectives and pass
10 this information along to them.

11 Q. Detective Butler, did this defendant
12 try to make any kind of deals or anything with
13 you?

14 A. No, ma'am. No.

15 Q. That just wasn't discussed at all?

16 A. No. He was coming at me like he had
17 information about this case. He wasn't
18 admitting to me that he had any involvement in
19 it.

20 Q. In fact, when you walked off from your
21 conversation with this defendant and contacted
22 the Houston Police, did you think you had been
23 talking to the suspect?

24 A. No, ma'am.

25 Q. If he had approached you about trying

1 to make some kind of deal in exchange for
2 information, would you have been in a position
3 to make a deal?

4 A. No.

5 MR. STAFFORD: Object to speculation,
6 judge.

7 THE COURT: I am sustaining his
8 objection unless y'all want to argue about it.

9 MS. DAVIES: I will ask another
10 question.

11 Q. Well, I certainly don't want you to
12 speculate about anything, but are you in a
13 position as a detective with the Pasadena police
14 to make a deal with anyone in regard to a case
15 that the Houston Police were handling?

16 A. No, ma'am.

17 MS. DAVIES: Pass the witness.
18
19
20
21
22
23
24
25

CROSS EXAMINATION

BY MR. STAFFORD:

Q. It's nothing unusual for persons with information to try to make a deal; is it? I have some information, and you give me something in return and I will give you what I know about a crime. That happens every day; doesn't it?

A. Yes.

MS. DAVIES: Objection.

THE COURT: Overruled

BY MS. STAFFORD:

Q. What we are trying to tell this jury is Mr. Rhoades didn't attempt that with information about two murders; did he?

A. No.

MR. STAFFORD: I have no other questions.

THE COURT: Anything else?

MS. DAVIES: May this witness be excused?

THE COURT: You may down, sir.

MR. STAFFORD: I do have one other question.

BY MR. STAFFORD:

Q. When you went down to see him in

1 response to your supervisor sending you down,
2 you didn't read him his Miranda warnings; did
3 you?

4 A. No, sir.

5 Q. Didn't tell him he had a right to a
6 lawyer or anything of that nature?

7 A. No, sir.

8 Q. You just started asking him questions?

9 A. Yes, sir.

10 MR. STAFFORD: No other questions.

11 THE COURT: Anything else?

12 You are excused.

13 Call your next.

14 MS. DAVIES: Sergeant Massey.

15 MICHAEL MASSEY

16 was called as a witness by the State and, having
17 been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. DAVIES:

20 Q. Tell us your name, please.

21 A. Michael K. Massey.

22 Q. How are you employed?

23 A. I am a Pasadena police officer.

24 Q. How long have you been in law
25 enforcement?

1 A. Fourteen years.

2 Q. Have you been with Pasadena all that
3 time?

4 A. Yes, ma'am.

5 Q. What is your assignment?

6 A. I am a sergeant, I am a supervisor in
7 the juvenile division.

8 Q. Was that position that you held back
9 in October of 1991?

10 A. No, it's not.

11 Q. You changed assignments since then?

12 A. Yes.

13 Q. What was your job on October 11 of
14 1991?

15 A. I was assigned to the detective
16 division.

17 Q. Were you on duty on that date?

18 A. Yes, I was.

19 Q. Do you recall having any dealings in
20 regard to an inmate named Steven Leland or Rick
21 Rhoades?

22 A. Yes, I do.

23 Q. What hours were you working that day;
24 do you remember?

25 A. That time of year I was working

1 evening shift. It was from two in the afternoon
2 until 10:30 at night.

3 Q. How did you first become aware -- or
4 let me ask it this way. Did you have any
5 conversation with any Houston Police detectives?

6 A. Yes, I did.

7 Q. When did you first come in contact
8 with Detectives Maxey and Kennedy, if you did?

9 A. I had been approached by another
10 sergeant who was working day shift detectives at
11 the time and told me a prisoner in our jail
12 wanted to speak to some Houston detectives.

13 Q. Did you do anything to facilitate that
14 conversation taking place?

15 A. I contacted Houston Police Department
16 and spoke to a lieutenant in their homicide
17 division, and he directed me to or he told me he
18 would get ahold of some detectives who were
19 handling the particular case, and they called me
20 back.

21 Q. And was that Sergeant Kennedy or Maxey
22 who called you back, or do you recall?

23 A. I don't recall who called me, but it
24 was one of those two, yes.

25 Q. Did they then come to your Pasadena

1 jail on that date?

2 A. They came to the detective division.

3 Q. Did they come to meet you there?

4 A. Right.

5 Q. Did you do anything to assist them?

6 A. I took them to our jail and checked
7 the prisoner out and brought them back up to our
8 offices and provided them an interview room to
9 talk to the prisoner.

10 Q. Describe for the jury your offices,
11 the interview room, what the layout is.

12 A. Well, it's called the bull pen. It's
13 a great big office or big area that has several
14 desks in it, has an office for one supervisor
15 and has two smaller rooms that we use as
16 interview rooms.

17 Q. Those interview rooms, are they open
18 to view from the large bull pen area of the
19 office?

20 A. If the door is left open, they are
21 open to view.

22 Q. All right. Are those rooms that you
23 routinely use for the purpose of interviewing
24 witnesses or suspects?

25 A. Yes.

1 Q. Did you stay in the interview room
2 that you permitted Officer Maxey and Kennedy to
3 use?

4 A. No.

5 Q. Did you stay there at the office?

6 A. Yes, I did.

7 Q. What area were you in?

8 A. I was in the bull pen area, our office
9 area at my desk doing my work.

10 Q. I believe you said that you got this
11 defendant, what, from the jail?

12 A. Yes.

13 Q. And brought him to that interview
14 room?

15 A. Yes.

16 Q. Did you notice who went into the
17 interview room with the defendant?

18 A. The two Houston Sergeants Kennedy and
19 Maxey.

20 Q. During the period of time that they
21 were there in using your interview room, did you
22 notice whether anybody came in and out for
23 coffee or refreshments or for any purpose?

24 A. One of the two would come out every
25 now and then and go get water, coffee, and bring

1 it back into the room.

2 Q. Did you notice whether anybody was, as
3 you were sitting out in that open area, did you
4 notice whether anybody was smoking or whether
5 this defendant was permitted to smoke, if you
6 saw?

7 A. I did not see him smoking, no.

8 Q. Did you actually go into the room
9 where you would have an opportunity to see that?

10 A. No, I did not.

11 Q. At some point, did you provide any
12 paperwork for Sergeant Kennedy or Maxey?

13 A. Yes, I did.

14 Q. What did you provide for them?

15 A. I provided them a form that we use for
16 taking a statement of person in custody.

17 Q. Is that a special printed form that
18 you use?

19 A. Yes, it is.

20 Q. Why is it that you use that form?

21 A. We use the form because it has the
22 suspect's warnings printed on that form.

23 Q. Let me show you what has been marked
24 for identification purposes as State's Exhibit 1
25 consisting of five pages. Do you recognize --

1 is there any printed material on that document
2 on the first page?

3 A. Yes, there is.

4 Q. Is that the form that you are
5 referring to as a form that you use at the
6 Pasadena police for taking statements?

7 A. Yes, it is.

8 Q. Is that the form or the type form that
9 you provided for the Houston detectives who were
10 there?

11 A. Yes, it is.

12 Q. Can you describe for the jury what are
13 those warnings that are printed on the top of
14 that form?

15 A. They are the defendant's or suspect's
16 Miranda warnings that are used before you ask
17 them if they understand the warnings before they
18 give a statement. It's the warnings that you
19 have to give them.

20 Q. After you provided that form to the
21 Houston detectives, did you continue to work out
22 in the outer office?

23 A. Yes, I did.

24 Q. Were they still in the interview room
25 with this defendant?

1 A. Yes, they were.

2 Q. At some point were you asked to assist
3 again?

4 A. Yes, I was.

5 Q. What were you asked to do?

6 A. I was asked to witness the defendant
7 signing the statement.

8 Q. Were you the only one who was asked to
9 witness the statement?

10 A. No, I was not.

11 Q. Who else was asked to assist?

12 A. The person I was working with that
13 night, Sergeant Fickessen.

14 Q. How did you go about -- when you said
15 you were asked to witness the statement, did you
16 go into the interview room, or how did you go
17 about doing that?

18 A. The Houston officers brought the
19 defendant into the bull pen or office area and
20 they left for awhile. At that point, I asked
21 the defendant if he was signing this because he
22 wanted to, and he said he was.

23 Q. What was the defendant's demeanor
24 during the period of time that you saw him on
25 this date?

1 A. He seemed to be carefree and relieved
2 more than anything else.

3 Q. Was he tearful, emotional, crying or
4 anything like that?

5 A. No, he wasn't.

6 Q. Did he appear to be intoxicated?

7 A. No, he didn't.

8 Q. The conversation that you had with
9 him, did he appear to understand what you were
10 saying to him and respond appropriately?

11 A. Yes, he did.

12 Q. When you went in to that interview
13 room, I think you said Sergeant Kennedy and
14 Maxey stepped out of the room for a short period
15 of time?

16 A. Yes.

17 Q. Is that while you were witnessing the
18 signature?

19 A. Yes.

20 Q. Before a signature was placed on this
21 five page document, State's Exhibit 1, did you
22 inquire about the warnings that are printed at
23 the top of the page?

24 A. No, I did not.

25 Q. Did you make any inquiry of the

1 defendant as to whether he was willing to sign
2 this statement?

3 A. I asked if he wanted to sign it, and
4 he said he did.

5 Q. There is a signature of person making
6 statement on each of these five pages. Who
7 signed that?

8 A. The defendant did.

9 Q. Can you point out for us in the
10 courtroom today who you saw sign as the
11 signature of person making statement?

12 A. He is the subject sitting over there
13 in the white checked shirt and blonde hair.

14 MS. DAVIES: Your Honor, may the
15 record reflect that this witness has identified
16 the defendant?

17 THE COURT: It will.

18 BY MS. DAVIES:

19 Q. There are two signatures of witnesses
20 on each of those pages also. Can you tell us
21 whose signatures those are?

22 A. One of the signatures is mine. And
23 the other one is Sergeant Fickessen's.

24 Q. He was there with you at the same time
25 to witness this?

1 A. Yes.

2 Q. Did the defendant at any point ask for
3 an attorney in your presence?

4 A. Not in my presence, no.

5 Q. Did he demonstrate any reluctance to
6 talk to the Houston detectives in your presence?

7 A. No, ma'am.

8 Q. Did he demonstrate any reluctance to
9 sign this statement?

10 A. No, ma'am.

11 Q. After the statement was signed, did
12 you turn that over to the Houston detectives?

13 A. Yes, I did.

14 Q. After that, did you assist them in any
15 other way in connection with this defendant?

16 A. They had wanted to check him out of
17 jail to go to some location with him. And I
18 took him down to the jail and showed them the
19 procedure how to check him out of the jail, and
20 they did so.

21 Q. This was after the statement was
22 signed and witnessed; is that correct?

23 A. Yes.

24 Q. Did the defendant demonstrate -- did
25 he appear to be willing and cooperative in going

1 with the Houston detectives, or was he reluctant
2 to do that?

3 A. He was cooperative.

4 Q. Did you ever see any demonstration of
5 emotion on this defendant's part during this
6 entire process?

7 A. No, ma'am.

8 MS. DAVIES: Pass the witness.

9 MR. STAFFORD: May I see his report,
10 Your Honor?

11 MS. DAVIES: I am not aware that
12 Sergeant Massey made a report. Did you,
13 Sergeant Massey?

14 THE WITNESS: No, ma'am, I did not
15 make a report.

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1 CROSS EXAMINATION

2 BY MR. STAFFORD:

3 Q. You did describe to the jury that when
4 he was coming up from the -- when you were
5 bringing him up, that he appeared to be somewhat
6 in a mood that he was wanting to get something
7 off his chest, basically, he wasn't acting cocky
8 or anything?

9 A. He was carefree and just like he was
10 relieved. That is all I can say.

11 Q. Somewhat relieved. And could you tell
12 the jury, when he went into the interview room
13 to start talking to the Houston detectives, how
14 long were they in there approximately before
15 they came out and asked for the confession
16 papers that you have already identified?

17 A. I can't give you an exact time how
18 long they were there. Maybe thirty minutes. I
19 can't tell exactly.

20 Q. They were in there for awhile talking;
21 is that correct?

22 A. Yes.

23 Q. And you have no idea what they were
24 talking about?

25 A. No, sir, I don't.

1 Q. And there is nothing that occurred,
2 either the detectives talking to you or any
3 conversation you had with my client, that would
4 indicate to you that my client did not
5 corporate, was not in the mood to tell them
6 everything he knew about this crime? He just
7 wanted to get it off his chest?

8 A. As far as I knew, he was cooperative.

9 Q. There was nothing there to indicate
10 that you did anything to force him to tell you
11 about it; is that correct?

12 A. No, sir.

13 Q. There was none of this bad guy, good
14 guy routine going on, we will make you a deal,
15 or one of the cops being kind of tough, he was
16 just forthcoming and telling them everything he
17 possibly knew about it?

18 A. I wasn't in the room; so, therefore, I
19 don't know if there was a good guy or bad guy
20 routine going on. He never said anything to me
21 as far as wanting to talk. He was not talking
22 to me at all.

23 Q. In fact, when you came in to witness
24 the confession that he made, he signed it freely
25 and voluntarily in front of you?

1 A. He came out to our office and we
2 witnessed it there. And, yes, he did sign it
3 voluntarily.

4 Q. And this was almost a month after the
5 fact?

6 A. I don't know the exact date of when
7 this incident occurred.

8 Q. Do you recall, when Sergeant Butler
9 informed you about contacting the detectives
10 over at HPD, approximately what time was that;
11 do you remember?

12 A. It was about between 3:30 and 4:00 in
13 the afternoon because I had just come on duty at
14 2:00 and he was scheduled to get off at 4:00.

15 Q. Do you recall approximately what time
16 it was when the Houston detectives finally
17 arrived?

18 A. I believe it was about seven, 6:30 or
19 seven.

20 Q. But it was during your shift?

21 A. Yes.

22 Q. On the same day?

23 A. On the same day, yes, sir.

24 Q. And I assume that from your
25 conversations with Sergeant Butler you had

1 learned or come to know that you actually had
2 Rick Rhoades in custody and not the person that
3 he was booked in as?

4 A. Yes.

5 Q. And this information was volunteered
6 by Mr. Rhoades himself?

7 MS. DAVIES: I object. It's hearsay.

8 THE COURT: Sustained

9 BY MR. STAFFORD:

10 Q. Did you come to find out on your own
11 independent recollection that Mr. Rhoades was
12 the one that corrected the agency as to who he
13 was?

14 MS. DAVIES: Back door hearsay.

15 THE COURT: Sustained.

16 BY MR. STAFFORD:

17 Q. Had your department made any
18 fingerprint investigation through the FBI to
19 determine the fingerprints of the person who was
20 booked in your facility to determine who he was?

21 A. I am not aware of any.

22 Q. And I think you have already told the
23 prosecutor that when they were checking Mr.
24 Rhoades out to go to a location to recover some
25 items from this offense he went voluntarily and

1 cooperative; did he not?

2 A. Yes, he did.

3 MR. STAFFORD: I have no other
4 questions.

5 THE COURT: Do you have anything
6 else?

7 MS. DAVIES: No.

8 THE COURT: Please approach the
9 bench.

10 Ladies and gentlemen, take five
11 minutes, if you would. We are not breaking for
12 lunch yet. We are going to probably get another
13 45 minutes or hour testimony in before lunch.

14 (Recess; after which, the jury returns
15 to the courtroom)

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1 STEWART H. KENNEDY

2 was called as a witness by the State and, having
3 been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. DAVIES:

6 Q. Would you, please, tell us your name?

7 A. Stewart H. Kennedy.

8 Q. How are you employed?

9 A. City of Houston police officer.

10 Q. How long have you been in law
11 enforcement?

12 A. Eighteen years.

13 Q. What is your rank with the Houston
14 Police Department?

15 A. Sergeant.

16 Q. Have you been with the Houston Police
17 for eighteen years?

18 A. Yes.

19 Q. Sergeant assigned to what division?

20 A. Homicide division.

21 Q. How long have you been in homicide?

22 A. Ten years.

23 Q. Do you have a partner who works with
24 you?

25 A. Yes, I do. R. L. Maxey.

1 Q. Y'all work together routinely?

2 A. Yes, we do.

3 Q. Were you on duty back on September 13
4 of 1991?

5 A. Yes, I was.

6 Q. Were you called out to 624 Keith
7 Street on that day?

8 A. Yes.

9 Q. Is that location in Harris County,
10 Texas?

11 A. Yes, it is.

12 Q. Do you recall about what time of day
13 it was that you went out to 624 Keith?

14 A. It was approximately eight, 8:30 a.m.
15 when we were advised to go out there.

16 Q. Did you go by yourself or did you go
17 with your partner?

18 A. Myself and Sergeant Maxey went
19 together.

20 Q. When you arrived at 624 Keith, were
21 there any other law enforcement people already
22 on the scene?

23 A. Yes, there were numerous police
24 officers already arrived at the scene, including
25 CSU Officer Jordan.

1 Q. In fact, is that Harold Jordan?

2 A. Yes, it is.

3 Q. What about Jim Bolding, do you know
4 him?

5 A. Yes, I do.

6 Q. From the crime lab?

7 A. Yes, ma'am.

8 Q. Was he there when you arrived?

9 A. No, I think I got there before Jim did.

10 Q. What about Chuck Sheldon?

11 A. I was there before Sheldon was, also.

12 Q. When you arrived, had the scene been
13 secured by the officers that arrived there prior
14 to you?

15 A. Yes, it had.

16 Q. Can you tell the jury what it was you
17 and Sergeant Maxey did when you first got there?

18 A. Upon arrival at a scene, determination
19 is made which partner will handle which part of
20 the investigation. There is basically two parts
21 to a homicide investigation, one is the scene
22 investigation, which includes processing of the
23 scene, collecting the evidence, photography, and
24 stuff like that, the other is the witness side
25 of the investigation. One partner talks to all

1 the potential witnesses and one partner handles
2 the scene. It was my duty to handle the scene
3 on this investigation.

4 Q. So, were there witnesses there who
5 needed to be talked to immediately upon arrival?

6 A. Yes, there was.

7 Q. Who took care of that?

8 A. Sergeant Maxey.

9 Q. In order to, when you say take care of
10 the scene, do you actually as a homicide
11 detective do you physically pick up the evidence
12 yourself and take it in?

13 A. No, I do not.

14 Q. You are in a supervisory capacity?

15 A. That is correct.

16 Q. In order to accomplish that, what did
17 you do first?

18 A. Well, we made a walk through the scene
19 to determine what we had and what we didn't
20 have. It was already roped off with tape so
21 nobody could get in.

22 Q. When you walked through the scene,
23 there was a front bedroom there where there was
24 some blood at the door, I understand.

25 A. That is correct.

1 Q. Was that door, had it been opened at
2 the point that you arrived?

3 A. The front door of the house? Or front
4 door of the bedroom.

5 Q. That front bedroom.

6 A. It was standing ajar. It was open
7 maybe two or three inches.

8 Q. Was there anything there preventing
9 that door from being opened?

10 A. Yes, there was a body.

11 Q. Could you tell the jury, just not in
12 precise detail, but just your first impression
13 as you walked through the house, what things you
14 observed that stood out in your mind?

15 A. The house was very neat and clean, but
16 the murder scene, it was a bloody mess. There
17 was blood everywhere. There didn't appear to be
18 anything torn up or ransacked or anything like
19 that.

20 Q. In the front part of the house, did
21 you notice in the living area, the kitchen area,
22 what would ordinarily be the dining room, was
23 there any signs of a struggle in that part of
24 the house that you observed at that point?

25 A. No.

1 Q. Were there areas of the house that
2 appeared otherwise in terms that there had been
3 a struggle?

4 A. Oh, yes.

5 Q. What portion of the house would that
6 be?

7 A. In either of the bedrooms, the front
8 bedroom that you alluded to earlier that had the
9 door closed. I mean, obviously, it appeared
10 that the man behind the door tried to close the
11 door to protect himself. And the master
12 bedroom, there were a few items knocked over
13 that could have been part of a struggle.

14 Q. Did you arrange to have anyone take
15 photographs there at the scene?

16 A. Yes.

17 Q. Who was that?

18 A. Officer Harold Jordan.

19 Q. Did you also arrange for a video tape
20 to be made of the scene?

21 A. Yes.

22 Q. Who did that?

23 A. Officer Jordan.

24 Q. Have you worked with him before?

25 A. Yes.

1 Q. Is he a crime scene unit officer?

2 A. That is correct.

3 Q. Just what is a crime scene unit
4 officer?

5 A. Their function is to go to murder
6 scenes, collect any evidence, photograph the
7 scene, make diagrams, measurements, video tape.
8 He handles all the evidence.

9 Q. Based on your observations and
10 experience with Officer Jordan, he takes care of
11 operating the video camera and so forth?

12 A. Yes.

13 Q. And takes accurate pictures.

14 Let me show you some photographs. In
15 fact, did Officer Jordan take a video at your
16 request in this?

17 A. Yes.

18 Q. Did you bring it to court with you?

19 A. Yes, I did.

20 Q. Could I have it, please?

21 I am going to mark the video that you
22 just handed me as State's Exhibit 87. Have you
23 viewed this video recently?

24 A. Yes, I have.

25 Q. Is this video, the pictures contained

1 on this, do they adequately depict the scene at
2 624 Keith as you saw it on the morning of
3 September 13, 1991?

4 A. Yes, they do.

5 Q. Let me show you some photographs. I
6 have exhibits, photographs marked exhibits 57
7 through 62.

8 Q. Can you look at those and tell us
9 whether those are accurate depictions of the
10 scenes on the exterior of the house on that
11 date?

12 A. Yes, they are.

13 Q. State's Exhibits 63 through 67. Are
14 these accurate depictions of scenes in the
15 interior of the house as they appeared on that
16 morning?

17 A. Yes.

18 Q. Is the same true of the photographs
19 marked State's 68 and 69?

20 A. Yes.

21 Q. Would you look through State's
22 Exhibits 70 through 76 and tell me whether these
23 are accurate depictions of the scene in that
24 front bedroom where the door was ajar and
25 blocked and then the interior of that room as it

1 appeared on that day?

2 A. Yes, they are.

3 Q. Let me show you photographs that have
4 been marked as 77 through 81. Do those
5 photographs accurately depict the back bedroom
6 of 624 Keith as it appeared on that morning?

7 A. Yes, they do.

8 MS. DAVIES: Your Honor, at this time
9 I am tendering to defense counsel the video tape
10 marked State's Exhibit 87, a copy of which has
11 been provided previously to defense counsel.
12 And I am also tendering to him State's Exhibits
13 57 through 81. Offer all of those items into
14 evidence at this time.

15 MR. STAFFORD: May I take the witness
16 on voir dire for purpose of the video?

17 THE COURT: Yes.
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1 VOIR DIRE EXAMINATION

2 BY MR. STAFFORD:

3 Q. Sergeant Kennedy, can you tell me
4 whether this is the original?

5 A. Yes, it is.

6 Q. Do you know of your own personal
7 knowledge whether it has been edited or not?

8 A. It has not.

9 Q. It has not been edited.

10 MR. STAFFORD: That is all the
11 questions I have.

12 THE COURT: First of all, as to
13 State's Exhibit 87, do you have any objection?

14 MR. STAFFORD: Only to the audio.

15 MS. DAVIES: I don't believe there is
16 any audio.

17 THE COURT: Are you talking about 87
18 or another exhibit?

19 MR. STAFFORD: I am talking about 87.

20 THE COURT: I am not aware of audio on
21 87.

22 THE WITNESS: There is no audio.

23 THE COURT: State's Exhibit 87 is
24 admitted.

25 MR. STAFFORD: Judge, I am going to

1 have numerous objections. I am going to tender
2 case law to the point.

3 THE COURT: Do you want the court
4 reporter taking this down?

5 MR. STAFFORD: I have tendered to the
6 court some case law in reference to my objection
7 under rule 403 of the Code of Criminal
8 Evidence. After I view these, I will have
9 objections to some of them, Your Honor.

10 THE COURT: Do you wish to make your
11 objections up here?

12 MR. STAFFORD: I am just going to do
13 the ones I don't object to. State's 63, 64, 65,
14 66, 67, 68, 69, 81, 77, 70, 73, 71. The rest of
15 them I have objections to them.

16 THE COURT: What about 57 and 62?

17 MR. STAFFORD: I have several here.
18 No objection to 57 and 62.

19 THE COURT: State's Exhibits 57, 58,
20 59, 60, 61 and 62, 63, 64, 65, 66, 67, 68, 69,
21 70, 71, 73, 77, and 81 are admitted. Let me see
22 72, 73, 75, 76, 78, 79 and 80.

23 THE COURT: Ladies and gentlemen, I
24 have to ask you to step down the hallway for
25 just a moment. Follow the bailiff.

1 (The jury is removed from the
2 courtroom).

3 MR. STAFFORD: Judge, for purpose of
4 the record I have tendered to the court a law
5 review article and the Long vs. State of Texas.

6 THE COURT: I am keeping in mind that
7 the Long case, they found it was harmless error.

8 MR. STAFFORD: I understand. But it
9 still was error. I think it's unfair for the
10 court to say, well, or the trial court to
11 address the issue and say, well, I know it's
12 error but it would be harmless error so I am
13 going to let it in anyway.

14 THE COURT: That was a different kind
15 of case. These are close-ups at the morgue of
16 the same evidence that was photographed at the
17 scene. Is that what we are talking about?

18 MR. STAFFORD: Yes. We have a video
19 which is going to show substantially the same
20 thing the photographs show, and it's just
21 needless accumulation of evidence, more so,
22 pictures that I have given you.

23 THE COURT: All right. Just a
24 moment.

25 Paul, take them to lunch.

1 MR. STAFFORD: Have no probative
2 value. They are gross, grotesque.

3 THE COURT: I am going to have to look
4 at the video also. We may as well do that now
5 while the jury is gone.

6 MS. DAVIES: I would like to say we
7 have a murder scene. The sequence of the
8 events, what took place inside that house, I
9 expect to show a different version based on the
10 physical evidence. There are certain aspects of
11 this physical evidence that will I think rebut
12 part of the defendant's statement when it comes
13 in. The court is on notice, as is the defense,
14 and has been for months that we intend to offer
15 some blood spatter testimony from experts. And,
16 so, to show part and not all of the details of
17 exactly where there was blood and the appearance
18 and pattern and all, it's doing a disservice.
19 We can't possibly get a fair trial and a just
20 result without being able to show the jury
21 exactly what kind of a scene this man created at
22 that address.

23 THE COURT: I don't see that there are
24 too many of these photographs. Each one of
25 these shows something different, including

1 weapons, blood spatter, location of wounds.

2 MR. STAFFORD: For purpose of the
3 record, Your Honor, so Ms. Davies can go ahead
4 and address the record. I conferred with
5 co-counsel. And if the State has put me on
6 notice that there was going to be blood spatter
7 expert testimony, this is the first time I have
8 been notified of it.

9 THE COURT: I am not addressing
10 whether or not you have had notice of blood
11 spatter testimony. I am inclined to allow the
12 photographs in. I will be looking at the video
13 tape. Let's go ahead and take care of that
14 before we break for lunch.

15 MR. STAFFORD: Judge, again, so the
16 record is clear as to my 403 objection under the
17 Rules of Criminal Evidence, I put the court on
18 notice that they are gross, have no probative
19 value other than to highly prejudice and inflame
20 this jury. It doesn't go to any question of
21 fact. There are going to be other, I mean, the
22 video will depict the same thing. It's just a
23 needless accumulation of evidence.

24 THE COURT: I also understand, in
25 arguing to the jury, that you can't use the

1 video but you can use the photographs.

2 MS. DAVIES: Your Honor, when the
3 court looks at the video you are going to see
4 that there are a few spots, a few scenes that
5 are shown on the video that 35 mm pictures were
6 not taken of. So the video does include some
7 things in addition to what is portrayed.

8 THE COURT: The video is not objected
9 to. The video is in evidence.

10 MS. DAVIES: I am pointing out to the
11 court that there are some differences in the
12 view one gets.

13 I would also point out for the court
14 that my recollection is that when we had a
15 hearing on this, I believe it was on the date
16 that we began jury selection, and we had some
17 hearings concluding some discovery matters and
18 motions at the very beginning of the trial, I
19 believe at the end of July, I don't remember the
20 exact date, 27th or 28th. When we were
21 discussing that, I am confident it was even on
22 the record that I had advised defense counsel
23 that in addition to the photographs that we have
24 there will be slides made of some of these same
25 photographs for the use of the blood spatter

1 expert. Sergeant Hoffmaster and Welch have been
2 on the subpoena list all along. And they were
3 advised of that.

4 MR. STAFFORD: As well as other people
5 on the subpoena list I have no earthly idea what
6 they are going to testify to. Also, the court
7 has given them advance notice under discovery,
8 they have not supplied me one iota of what this
9 expert is going to testify to, and I had no
10 knowledge that they were experts and subject to
11 -- I would like to have their findings
12 submitted to my experts to see if they are the
13 same and consistent with what their expert
14 says. This is the first time I ever heard of it.

15 MS. DAVIES: I am sorry Mr. Stafford
16 does not recall, but I specifically told him
17 that there would be slides which are duplicates
18 of not all but some of those 35 millimeter eight
19 by ten photographs that the court is looking at
20 right now, and they have been available to
21 defense counsel for months.

22 MR. STAFFORD: I haven't seen any
23 slides yet.

24 THE COURT: Would you like to see
25 them? Get them over here during the lunch hour,

1 please.

2 MS. DAVIES: I will try to get in
3 touch with them over the lunch hour. They
4 depict the same scenes as the eight by ten's,
5 and I advised Mr. Stafford of that. And asked
6 him if he needed to see them ahead of time.

7 THE COURT: I'll look at the video and
8 I will rule on the photographs.

9 MR. STAFFORD: I would ask that the
10 same evidence that their expert is looking at as
11 far as splatters, I should find an expert to see
12 if they are telling the truth, judge -- not
13 telling the truth, whether their deductions are
14 as reasonable as mine would be. I have no idea
15 what he is going to say, first of all. Does he
16 have a report?

17 THE COURT: Is this somebody from
18 serology? Who has the slides?

19 MS. DAVIES: I will have to contact
20 the detective. I assume that Sergeant
21 Hoffmaster has them.

22 MR. STAFFORD: Who is the expert?

23 THE COURT: Is he on your subpoena
24 list?

25 MS. DAVIES: Yes. Sergeant Hoffmaster

1 and Welch.

2 MR. STAFFORD: They are the experts on
3 blood spatter?

4 MS. DAVIES: They will be blood
5 spatter testimony. I advised you of that. I
6 told you we had slides made, they would be
7 slides of the same photographs that you had
8 seen.

9 MR. STAFFORD: I take issue. I was
10 not notified.

11 (Video viewed).

12 MR. STAFFORD: Judge, I believe it's
13 obvious from the viewing of the video that the
14 video is more than sufficient in detail to
15 accurately depict the scene, placing of the
16 bodies and to give this jury an intelligent
17 understanding of positioning, the blood, et
18 cetera, et cetera, et cetera. That the only
19 purpose that the exhibits which I have objected
20 to, the still photos, could serve would not aid
21 this jury in any shape, form or fashion. It
22 would only be introduced to inflame their minds
23 and cloud their objectivity to determine really
24 what happened here. I ask the court to use the
25 balancing test that was set out in Long and also

1 use the test that is articulated in rule 403 of
2 the Rules of Criminal Evidence and not allow
3 those objected to photos to be introduced in
4 evidence.

5 THE COURT: Your objection is
6 overruled. State's Exhibits 72, 74, 75, 76,
7 78, 79, and 80 are admitted, which, by my
8 calculations, all State's Exhibits from 57
9 through 81 are admitted. Plus State's Exhibit
10 87, which is the scene video.

11 (The jury enters the courtroom)

12 THE COURT: Proceed, please.

13 MS. DAVIES: Your Honor, before I
14 resume questioning Sergeant Kennedy, may I, in
15 regard to State's Exhibits 56, the TDC card that
16 is in evidence. During lunch break, co-counsel
17 called to my attention that when I wrote the
18 date of birth up on the board over here I wrote
19 it incorrectly. State's Exhibit 56 shows
20 4/10/62. And I need to make that correction.

21 THE COURT: It's not an exhibit
22 anyway. Just go ahead.

23 MS. DAVIES: I didn't want to make a
24 change without the court's permission.
25

1 STEWART H. KENNEDY,
2 called as a witness by the State and on the
3 stand at the time of the recess, resumed the
4 stand for further examination as follows:

5 DIRECT EXAMINATION

6 (Continued)

7 BY MS. DAVIES:

8 Q. Sergeant Kennedy, right before we
9 broke for lunch you had identified a number of
10 photographs and a video tape.

11 MS. DAVIES: Your Honor, again, in the
12 presence of the jury, I would like to offer into
13 evidence and have the Court's ruling for both
14 the jury as to the photographs which I have
15 tendered to defense counsel.

16 MR. STAFFORD: I object. I don't see
17 any necessity, in that the court has already
18 made a finding for purposes of the record.

19 THE COURT: Some of them had not been
20 presented. All photographs previously
21 discussed, State's Exhibits 57 through State's
22 Exhibit 81 are admitted.

23 MR. STAFFORD: I also make my same
24 objection.
25

1 BY MS. DAVIES:

2 Q. Sergeant Kennedy, I would like to come
3 back with you. You identified those photographs
4 as being accurate depictions of the things you
5 saw at the scene. For the moment I would like
6 to move forward. We will come back and talk
7 about those some more before you are through,
8 but for the moment I would like to go forward
9 and discuss your investigation with you.

10 Do you recall how much of the day that
11 Friday, September 13th, you were at 624 Keith
12 supervising the scene investigation?

13 A. Large amount of it. I don't recall
14 exactly the time that we left the scene
15 investigation, but we were there for the better
16 part of the day.

17 Q. Now, some of the pictures that you
18 have identified I believe you indicated were of
19 the interior of that front bedroom where Brad
20 Allen's body was found. You indicated that that
21 door was ajar but blocked by his body. Can you
22 explain to the jury how you managed to get into
23 that room to take photographs that would
24 adequately show the position of his body and the
25 things that were in the room?

1 A. Myself and Officer Harold Jordan broke
2 out a window on, an outside window on the north
3 wall of that bedroom, and we entered the bedroom
4 through the broken window.

5 Q. Were you the first one then to enter
6 that room?

7 A. Yes, I was.

8 Q. Did you have pictures taken before
9 anything was disturbed in the room?

10 A. Yes.

11 Q. Is that true of the rest of the house
12 as well?

13 A. That is correct.

14 Q. You said your partner Sergeant Maxey
15 was interviewing witnesses. Did you participate
16 in that aspect on that particular day?

17 A. I did not.

18 Q. Later, after that scene investigation
19 was complete, did you participate along with
20 your partner in talking to witnesses?

21 A. Yes, I did.

22 Q. At the point when you left 624 Keith
23 on September 13, did you have any hard leads,
24 any serious suspects in the case?

25 A. We did not.

1 Q. At that point, did you have the
2 benefit of the blood sampling that Jim Bolding
3 was doing or any result from the fingerprint
4 people?

5 A. We did not.

6 Q. After you had the scene investigation
7 done, what was your next step?

8 A. We interviewed all the complainants'
9 friends, relatives, potential enemies, trying to
10 find out any background information that we
11 could.

12 Q. Did you find any potential enemies of
13 Brad or Charles?

14 A. No enemies, no.

15 Q. Were there a number of family members
16 and friends there available to talk to you on
17 that Friday, September 13?

18 A. Yes, there were.

19 Q. Did you go to any other location to
20 interview anyone in connection with the pizza
21 boxes that were seen at the house?

22 A. I did not, no.

23 Q. Did you have that done?

24 A. Yes. If I recall correctly, Sergeant
25 Maxey handled that part of the investigation.

1 Q. As far as you know, what was your plan
2 in terms of investigating -- what was the plan
3 in terms of checking out the fact that there
4 were pizza boxes at the house?

5 A. Determine where they came from, what
6 time they were delivered, who was at the house
7 when they were delivered.

8 Q. Did you check all that out?

9 A. Yes, we did.

10 Q. Did you interview David Sanders?

11 A. Yes, we did.

12 Q. I believe you said various family
13 members. What about neighbors, people who lived
14 in the neighborhood?

15 A. Yes, we interviewed all the neighbors.

16 Q. If you would think ahead to the days
17 after September 13th. That was a Friday. On
18 that weekend, did you do any follow-up
19 investigation?

20 A. Yes.

21 Q. Do you recall any people who you
22 talked to?

23 A. We talked to numerous people. We
24 talked to the close friends of both brothers.
25 One in particular was James Hinkle. We talked

1 to one neighbor who purportedly had a violent
2 temper, named Mario Sowarto (phonetically). We
3 interviewed anybody who came into the
4 investigation.

5 Q. What about girlfriends?

6 A. We interviewed all girlfriends we knew
7 about.

8 Q. Other family members who had not been
9 available on Friday?

10 A. Yes.

11 Q. Do you recall when the funeral was?

12 A. I do not recall the day, no.

13 Q. Did you go to the funeral?

14 A. Yes, I did.

15 Q. What was your purpose in going to the
16 funeral?

17 A. I was going to try to talk to Mr.
18 James Hinkle.

19 Q. Did you make any observations or try
20 to locate, see anybody at the funeral?

21 A. While we were at the funeral, we
22 noticed one individual had a cut on his hand
23 which would be very much like the one you would
24 receive if your hand had slid down the blade of
25 a knife.

1 Q. And did you follow up on that?

2 A. Yes, we did.

3 Q. Do you remember what that person's
4 name was?

5 A. First we thought his name was Donald
6 Graham. Turned out later his name was actually
7 Michael Weber. We talked to both Graham and
8 Weber.

9 Q. What did you find out about the cut?

10 A. It had absolutely nothing to do with
11 our investigation.

12 Q. What about Charles Allen's ex-wife,
13 was she at the funeral?

14 A. Yes.

15 Q. Did you talk to her?

16 A. Yes, we did.

17 Q. Did you have -- David and Daniel
18 Sanders, did you talk to them?

19 A. Yes, I did.

20 Q. Take statements from them?

21 A. Yes.

22 Q. As you were talking to the various
23 family members and friends, did you get
24 fingerprints or blood samples or anything from
25 them for any purpose?

1 A. We took elimination fingerprints and
2 shoe sizes from each and every one of them. We
3 only took blood samples from a couple, but we
4 did take elimination fingerprints from
5 everybody.

6 Q. When you say elimination fingerprints,
7 what does that mean?

8 A. Set of fingerprints furnished to the
9 police department so you can be either
10 eliminated or identified in a particular
11 investigation.

12 Q. In other words, if they had developed
13 some prints that were usable, if one of these
14 people turned up to be a suspect, you could
15 compare their prints?

16 A. That is correct.

17 Q. Prints, was that fingerprints -- did
18 you also get footprints from some of these
19 people?

20 A. Right, we took shoe sizes and
21 footprints from each one of these individuals.

22 Q. Check out blood types on any of them?

23 A. Yes.

24 Q. As you were talking to all of these
25 people, did anybody come along who was not

1 cooperative?

2 A. No.

3 Q. Let me direct your attention to the
4 days and that week ahead. Did you get any other
5 information on other people to give you
6 additional leads? Did you ask the Sanders
7 brothers for any assistance?

8 A. Yes.

9 Q. Did you get any other names from them?

10 A. Yes, we did. They furnished us, since
11 the Allen brothers' house had just recently been
12 completed, we wanted to look at all the
13 construction workers that assisted in the
14 building of the house. Sanders brothers were
15 able to help us with that. They furnished us
16 with names of all contractors and
17 subcontractors.

18 Q. Did you talk to a number of those
19 people?

20 A. Yes, we did.

21 Q. Was there a guest list of people who
22 were coming to the studio party?

23 A. There was a party, they were suppose
24 to have had a party in the recording studio
25 behind the house, if I recall correctly, the day

1 or day after they were murdered, I can't recall
2 exactly, but they had sent out invitations to
3 numerous people that were supposed to attend the
4 party, and we did check out as many of these
5 people as we could.

6 Q. Did any of these leads turn up any
7 suspects?

8 A. No.

9 Q. Did you talk to all the brothers, all
10 the Allen brothers?

11 A. Yes.

12 Q. The footprints, did you observe the
13 footprints at the scene?

14 A. Yes, I did.

15 Q. After you had exhausted all of the
16 friends, family and construction workers, did
17 you make any effort to try to develop some
18 evidence, sock prints that were at the scene?

19 A. We picked a podiatrist out of the
20 phone book and ran them. Took some of the
21 tiles off the floor, took them to him and asked
22 his opinion about it, which didn't help us much
23 because we found out later in the homicide
24 office on our own with an ink pad, that once a
25 sock is on a foot, it makes a foot appear a lot

1 smaller. Like a normal size man's foot would
2 appear to be a woman's foot with a sock on it.

3 Q. How did you figure that?

4 A. I took my shoes off and took an ink
5 pad and stepped in it and walked around the
6 homicide division.

7 Q. Up until the point that you did that,
8 what had you -- you are laughing -- had you been
9 looking for a smaller size foot?

10 A. Yes, we had been looking for a small
11 individual.

12 Q. Was there any reward offered in this
13 case?

14 A. Yes, there was substantial award.

15 Q. How did that come about?

16 A. It was generated by the family. I
17 don't remember exactly who put it together, but
18 myself and Sergeant Maxey assisted in setting up
19 a bank account at their bank. It was a
20 sizeable award. I don't remember exactly how
21 much it was.

22 Q. Was anything done to let the public
23 know about that?

24 A. Our Crime Stoppers division made a
25 bunch of flyers and circulars that were put out

1 throughout that area of the city.

2 Q. They were actually, what, posted in
3 stores?

4 A. Yes, they were.

5 Q. What is Crime Stoppers?

6 A. I think most everybody knows what
7 Crime Stoppers is.

8 Q. I know, but I have to ask.

9 MR. STAFFORD: I object to the
10 relevancy, anyway, Your Honor.

11 THE COURT: Sustained.

12 MR. STAFFORD: Thank you.

13 BY MS. DAVIES:

14 Q. You referred to Crime Stoppers. When
15 you put out this flyer, this reward flyer, if an
16 individual had information, did you give out
17 instructions on what to do?

18 A. Yes.

19 Q. What were those instructions?

20 A. Call Crime Stoppers.

21 Q. Is there a phone number for Crime
22 Stoppers?

23 A. Yes, there is.

24 Q. Has that been a successful technique
25 in getting information on crimes in the past?

1 MR. STAFFORD: I object.

2 THE COURT: I don't see what the
3 relevancy is.

4 MS. DAVIES: There have been questions
5 from the defense about, you know, they would
6 never have been able to get a lead, and there
7 were some questions about the same kind of thing
8 I believe from one of the other witnesses.

9 THE COURT: Sustained.

10 BY MS. DAVIES:

11 Q. At some point, did you have information
12 that led you to believe that someone other than
13 Brad and Charles Allen's blood was in the house?

14 A. Yes.

15 Q. What caused you to form that opinion?

16 A. Well, because, obviously, from the
17 wounds they sustained during their attack, that
18 they hadn't moved far from where they were
19 attacked. There was blood in other places in
20 the house that appeared to have just been
21 dropped straight down, like the kitchen.

22 Q. Did you make any efforts, other than
23 noticing a man at the funeral, any effort to try
24 to locate whether anybody had been treated for a
25 cut around that time?

1 A. Yes, we contacted every hospital that
2 side of town.

3 Q. Were you successful in getting a
4 suspect in that regard?

5 A. No.

6 Q. When you first went to the scene on
7 that first day and saw the physical evidence, at
8 that point, based on your experience as a
9 detective, at that point, that very first day,
10 did you believe this to appear to be a burglary?

11 A. No.

12 Q. At some point in your investigation,
13 did you change your mind about that?

14 A. Yes.

15 Q. Can you tell us why you changed your
16 opinion? Or at what point?

17 A. After I talked to a suspect who ended
18 up being charged in the case.

19 Q. Prior to talking to the defendant,
20 thinking back to that first week of October, in
21 fact, October 7, did you go back out to the area
22 around Keith Street?

23 A. Yes.

24 Q. What was your purpose in going back
25 out to that area at that time?

1 A. On the west side of Keith Street,
2 where it dead ends, there is a large horse
3 pasture, probably fifty or sixty acres. It's
4 real brushy, has got a lot of brush and stuff.
5 So I got out and walked this horse pasture
6 trying to, looking for anything, like maybe the
7 guy that killed them threw something out while
8 he was running away.

9 Q. Go ahead.

10 A. While I was out there, the owner
11 caught me out there on his property, wanted to
12 know who I was. And he got to telling me these
13 stories about this apartment complex on South
14 Shaver, which is just a little bit further west
15 of his horse pasture, all these kids.

16 Q. Let me interrupt you. Don't go into
17 things anybody said. Did you find anything out
18 in that part of town?

19 A. No.

20 Q. After your conversation with the owner
21 of the horse pasture, did you go someplace else?

22 A. Yes.

23 Q. Where did you go?

24 A. Park Hollow Apartments on South
25 Shaver.

1 Q. What was your purpose in going there?

2 A. To talk to the manager and maintenance
3 man.

4 Q. Did you walk around, do any checking
5 around the Park Hollow Apartments?

6 A. Yes.

7 Q. Did you talk to a number of people?

8 A. Yes, I did.

9 Q. As you are talking to those people,
10 what do you do when you go out like that, do you
11 leave your card?

12 A. Yes.

13 Q. And information, let it be known there
14 is a reward or anything like that?

15 A. Yes.

16 Q. That was on October 7th?

17 A. Correct.

18 Q. Just a few days later -- I want you to
19 think ahead on October the 11th of 1991. Were
20 you on duty on that day?

21 A. Yes, I was.

22 Q. Were you with your partner, Sergeant
23 Maxey?

24 A. Yes, I was.

25 Q. Did anything happen -- in fact, were

1 you working on this case, on the Allen brothers'
2 murders on that day?

3 A. No.

4 Q. Do you recall where you were?

5 A. I was at Fairbanks North Houston and
6 149.

7 Q. Working on another case?

8 A. That is correct.

9 Q. Did anything happen to call you away
10 from that?

11 A. We were contacted by the Pasadena
12 police department in regard to this case.

13 Q. What did you do?

14 A. Called the homicide division of the
15 Pasadena police department and talked to a
16 Sergeant Massey.

17 Q. After you talked to Sergeant Massey,
18 did you go to the Pasadena jail?

19 A. Yes, we did.

20 Q. Do you recall about what time of day
21 that was? When did you first hear from Sergeant
22 Massey, if you recall?

23 A. It was approximately 6:00. Maybe a
24 little after. I am not exactly sure.

25 Q. About what time was it when you got

1 over to the Pasadena jail?

2 A. Probably about seven o'clock or
3 shortly thereafter.

4 Q. Both you and Sergeant Maxey?

5 A. That is correct.

6 Q. What happened when you got there to
7 the jail?

8 A. We had been advised prior to going to
9 the Pasadena police department that they had a
10 suspect in custody that might have some
11 information on the Allen brothers murder.

12 Q. At the point that you went over there,
13 did you have any reason to think that they
14 actually had the killer you were looking for in
15 custody?

16 A. No.

17 Q. So what did you do when you got there?

18 A. We went to the their detective bureau,
19 and they advised us they had this individual in
20 jail that wanted to talk to us.

21 Q. Was that person there available
22 immediately?

23 A. No, he was not. He was still in
24 jail. They had to go get him for us.

25 Q. Did they give you an opportunity to

1 talk to him?

2 A. Yes, in one of the interview rooms in
3 their detective bureau.

4 Q. Was that the first time you had seen
5 that person?

6 A. That is correct.

7 Q. Who was in the interview room as you
8 mentioned?

9 A. Myself, individual we had been called
10 to talk to and Sergeant Maxey.

11 Q. Did the Pasadena detectives stay in
12 the room with you, in the actual interview room?

13 A. No, they did not.

14 Q. What did this person say when you
15 first came into the room?

16 A. We identified ourselves.

17 Q. You and Sergeant Maxey?

18 A. That is correct.

19 Q. When you say you identified
20 yourselves, what did you tell that person?

21 A. I am Sergeant Kennedy, this is
22 Sergeant Maxey from the Houston homicide
23 division, and we understood he had some
24 information on a case we were working on.

25 Q. How did he respond?

1 A. He said that he did.

2 Q. What happened next?

3 A. I asked him what he knew. And he made
4 some comment like I was there or something like
5 that.

6 Q. So what did you do?

7 A. I asked him, "Well, go ahead and tell
8 us what you know." And he said that he did it.

9 Q. I mean, what words did he use?

10 A. That is the way I recall the
11 conversation. He just said that I did it.

12 Q. Was that the first point that you had
13 any inkling that you were talking to somebody
14 that was actually going to give a confession?

15 A. Yes.

16 Q. What was your expectation when you
17 went to the Pasadena jail?

18 A. Well, I talked to Massey on the phone,
19 he told me the guy was in jail for burglary. I
20 thought he might possibly have some information
21 on our murder and wanted to flip one of his
22 friends or something and get a deal on his
23 burglary.

24 Q. You used the term flip.

25 A. Turn in somebody. He wanted to turn

1 in somebody for consideration on his case he was
2 in jail for.

3 Q. Now, when he showed up there in that
4 interview room and said he did it, or words to
5 that effect, what was the first thing you did?

6 A. I asked him if he wanted to talk about
7 it.

8 Q. What did he say?

9 A. He said yes. He just started talking
10 about it.

11 Q. What did you do?

12 A. I had to stop him.

13 Q. Why?

14 A. To read him his legal warnings.

15 Q. When you say his legal warnings, is
16 that what we commonly refer to as Miranda
17 warnings?

18 A. Correct.

19 Q. How did you go about giving him those
20 warnings?

21 A. I read them off a blue card that is
22 furnished to the police department from the
23 District Attorney's Office.

24 Q. Is that something that you carry with
25 you all the time?

1 A. Yes, it is.

2 Q. For the benefit of the jury, would you
3 tell us exactly what you told him?

4 A. Do you want me to read the warnings?

5 Q. Yes, sir. Let me, before you start
6 reading that, let me ask you for the record, for
7 the jury's benefit, who was the person that came
8 into the interview room and told you I did it
9 and you stopped him?

10 A. It was Mr. Rick Rhoades.

11 Q. Would you point him out?

12 A. He is the man sitting here with the
13 white I guess it's plaid shirt, I am not sure.

14 MS. DAVIES: May the record reflect
15 that this witness has identified the defendant?

16 THE COURT: It will.

17 BY MS. DAVIES:

18 Q. Now, would you tell the jury exactly
19 what warnings you gave this defendant?

20 A. You have the right to remain silent
21 and not make any statement at all and any
22 statement you make may be used against you and
23 probably will be used against you at your
24 trial. Any statement you make may be used as
25 evidence against you in court. You have the

1 right to have a lawyer present to advise you
2 prior to and during any questioning. If you are
3 unable to employ a lawyer, you have the right to
4 have a lawyer appointed to advise you prior to
5 and during any questioning. You have the right
6 to terminate this interview at any time.

7 Q. What was this defendant's reaction
8 when you read those warnings to him?

9 A. He stated he understood.

10 Q. As you talked to him, did he appear to
11 understand, be able to communicate freely with
12 you?

13 A. Yes.

14 Q. Did he appear to be intoxicated or on
15 drugs of any kind?

16 A. No.

17 Q. Did you offer him a cigarette or
18 anything?

19 A. Yes, my partner did, Sergeant Maxey.

20 Q. So after you read those warnings, did
21 he, the defendant, did he change his mind, say,
22 no, I want a lawyer? What happened?

23 A. No. He still wanted to talk about it.

24 Q. Were y'all still there in that
25 interview room?

1 A. Yes.

2 Q. At that point, did the defendant give
3 you information about the killing of the Allen
4 brothers?

5 A. Yes, he did.

6 Q. Did you notice whether he had any
7 injuries?

8 A. He had a cut on his right hand like at
9 the base of the thumb, between the forefinger
10 and thumb.

11 Q. Did he show that cut to you?

12 A. Yes, he did.

13 Q. After you talked to the defendant, in
14 fact, for a period of time, did y'all just sit
15 there and talk about it?

16 A. For a short period of time, yes.

17 Q. At some point did you ask whether he
18 would give you that statement in writing?

19 A. Yes.

20 Q. What was the defendant's reaction?

21 A. He agreed to do so.

22 Q. At first, before you started putting
23 it in writing, can you tell the jury was he
24 describing the details of what had happened?

25 A. Yes, he was.

1 Q. And what was his manner of speaking?

2 A. He was calm, collected.

3 Q. Did he ever break down with emotion or
4 anything?

5 A. No.

6 Q. When you asked whether he would be
7 willing to put that in writing, what was his
8 response?

9 A. He agreed to do so.

10 Q. So what did you do?

11 A. So we moved over to another room and
12 got a typewriter and started to take the written
13 statement from him.

14 Q. How did you go about taking that
15 written statement?

16 A. It's on a form. We hadn't
17 anticipated taking a confession when we went
18 over there, we didn't take any forms. We had to
19 use Pasadena police department forms.

20 Q. You have a special form in the Houston
21 Police Department?

22 A. They are very similar. It's the same
23 thing.

24 Q. What, you have a word processor over
25 at the Houston Police Department?

1 A. Yeah, but I don't know how to use it.

2 Q. Do you know how to type?

3 A. Yes.

4 Q. What did they provide for you at the
5 Pasadena police department?

6 A. Typewriter.

7 Q. Typewriter. So, you said you didn't
8 have your form with you. What did you do?

9 A. We used a form that the Pasadena
10 police department uses.

11 Q. Let me show you what has been marked
12 for identification, a five page document,
13 State's Exhibit 1. Do you recognize that?

14 A. Yes, I do.

15 Q. In reference to the top printed
16 portion, is that the printed portion, is that
17 the form that was provided for you?

18 A. Yes, it is.

19 Q. Tell the jury why it is you use a
20 special form when you take a statement.

21 A. In regard to a confession or witness
22 statements or what?

23 Q. In regard to a confession.

24 A. Because it has the rights, the legal
25 rights written on the top again.

1 Q. So, before you started typing the
2 statement, I think you said you had already read
3 the warnings from your blue card. Once you got
4 this form and you were going to type the
5 statement, did you do anything in connection
6 with those warnings again?

7 A. I asked him to read them, but I did
8 not read them to him a second time.

9 Q. Who did you ask to read them?

10 A. Mr. Rhoades.

11 Q. Did you make that form, the warnings
12 that are printed on the first page of State's
13 Exhibit 1, did you put it in front of this
14 defendant so that he could have an opportunity
15 to read it?

16 A. That is correct.

17 Q. Did he appear to read it?

18 A. Yes.

19 Q. Was there anything about the way he
20 handled himself or anything that he said that
21 would have caused you to doubt whether he was
22 capable of reading?

23 A. No..

24 Q. After he read those rights, did you
25 ask him whether he was willing to go ahead and

1 give the statement to you?

2 A. Yes.

3 Q. What was his response?

4 A. Yes.

5 Q. What did you do?

6 A. I proceeded in taking the written
7 statement from him.

8 Q. How do you go about doing that? Is it
9 question and answer, how do you?

10 A. It's a little bit of both. Just ask
11 them what happened, and they start telling you.
12 You ask them questions if you need to clarify
13 something.

14 Q. Do you try to type the words as the
15 defendant is telling you?

16 A. Yes.

17 Q. Five page statement, did you type the
18 entire thing?

19 A. No, I did not.

20 Q. Why not?

21 A. It's a long statement. Sergeant Maxey
22 typed about half of it, the last portion.

23 Q. Now, as the three of you are in that
24 room, by the way, did you have a weapon on you,
25 or your partner? Do you take a weapon into an

1 interview room like that?

2 A. No.

3 Q. What time was it that you started
4 typing that statement?

5 A. Approximately eight p.m.

6 Q. During the entire period of time that
7 you were with this defendant on October 11th of
8 1991, prior to the signing of this statement,
9 did he ever indicate that he wanted to quit
10 talking?

11 A. No, he did not.

12 Q. Did he ever ask for an attorney?

13 A. No.

14 Q. Did he ever ask for any favors or
15 promises?

16 A. No, he did not.

17 Q. Did you ever give him any promises?

18 A. No.

19 Q. Or did your partner?

20 A. No.

21 Q. Did either you or your partner ever
22 coerce him or threaten him?

23 A. No.

24 Q. Use any force against him whatsoever?

25 A. No.

1 Q. What was his demeanor throughout the
2 telling and typing of the statement?

3 A. As I stated before, he was calm and
4 collected.

5 Q. He never changed?

6 A. No.

7 Q. Once you finished typing it, the five
8 pages, or you and your partner finished typing
9 State's Exhibit 1, then what did you do?

10 A. At that time we asked him to read what
11 we had just typed, make sure that is what he
12 told us, in case he wanted to make any changes
13 or additions.

14 Q. Did you actually give him all five
15 pages where he could have them in front of him
16 and look at them?

17 A. Yes, ma'am.

18 Q. Did he make any change?

19 A. He made one change.

20 Q. What was that?

21 A. I misspelled a name on the first page
22 of the statement, and he corrected it.

23 Q. In the typewritten portion, is that
24 about five lines down on that second paragraph?

25 A. Yes, it is.

1 Q. Where that correction is made, did he
2 initial that?

3 A. Those are his initials where the
4 corrections are.

5 Q. Did he make any other corrections?

6 A. No.

7 Q. If he had indicated that anything you
8 had typed on here was wrong, would you have made
9 the change?

10 A. Yes, I would.

11 Q. So after the defendant had a chance to
12 look over the statement, then what did you do?

13 A. We called two Pasadena police officers
14 in to witness the signing of the statement by
15 Mr. Rhoades.

16 Q. Who was that, do you recall?

17 A. Sergeant Maxey and another guy's name
18 was Fickessen or something like that. I may be
19 wrong about that.

20 Q. Do their names appear on the witness
21 signature line on that five page statement?

22 A. Yes, they do.

23 Q. Now, did you and your partner stay in
24 the room while Sergeant Massey and Fickessen
25 witnessed the signing of the statement?

1 A. No, we did not.

2 Q. How long were you gone for that to
3 take place?

4 A. Five, ten minutes, maybe fifteen
5 minutes at the most.

6 Q. Is that typical, do you usually leave
7 the room?

8 A. Yes.

9 Q. Why is that?

10 A. To let the witnesses who are going to
11 witness the signature be alone with the person
12 who is going to sign the statement.

13 Q. Does that give them a chance, if you
14 had coerced them, they would have a chance to
15 tell somebody else; is that the idea?

16 A. Yes.

17 Q. Is State's Exhibit 1 the statement
18 that you took from this defendant, Rick Allan
19 Rhoades?

20 A. Yes, it is.

21 MS. DAVIES: Your Honor, at this time
22 I offer State's Exhibit 1 in its entirety.
23 Tendering it to defense counsel.

24 MR. STAFFORD: No objection.

25 THE COURT: State's 1 is admitted.

1 MR. STAFFORD: Other than what I
2 previously made outside the presence of the
3 jury, without waiving that objection.

4 MS. DAVIES: Your Honor, may I read
5 State's Exhibit 1 to the jury?

6 THE COURT: You may.

7 MS. DAVIES: Omitting the typewritten
8 enumerated warnings at the top of the page.

9 "My name is Rick Rhoades. I also go
10 by Steven Ray Leland and David Marcas. I am
11 giving this statement to Sergeant Kennedy in
12 regards to the death of the Allen brothers on
13 Keith Street back on September 13th. I
14 contacted the police and wanted to tell them
15 about this deal. They did not call me.

16 "I have been to the joint four times,
17 twice in Indiana and twice in Texas. It was
18 always for burglary or auto theft, never
19 anything violent. I got out of the joint on
20 September 12th of this year. I processed out
21 at the Walls Unit in Huntsville and caught a bus
22 to Houston. I was in the joint this last time
23 under an alias of David Marcas. I was suppose
24 to go to a half-way house in Beaumont, but I
25 came to Houston instead. I took the bus to

1 downtown Houston and then I took a cab to the
2 southeast area of town. I was looking for a guy
3 named Mike that had some clothes of mine in
4 Pasadena, but I could not find him. I then
5 took a cab to La Porte to try and find my
6 parents. I called their number, but someone
7 else answered the phone. I did not know where
8 they moved. When I could not find my parents, I
9 took a cab back to Pasadena. I went to the Park
10 Hollow Apartments on Shaver Road. I had lived
11 there before, and it was just a place that I
12 know. I got there about seven p.m. I got a
13 six-pack across the street from the apartments
14 and hung out around the pool. I talked to a few
15 people for awhile. I wandered around the
16 neighborhood for awhile. I went to the store
17 at the Pak & Go and got a sandwich. I played a
18 few video games and just kind of hung around.
19 I sat around behind the complex for quite
20 awhile. I also located a vacant apartment that
21 I figured I could spend the night in. I
22 probably drank about ten beers during this time,
23 but I was not drunk. I was feeling real good
24 about getting out of prison. It was a real
25 nice night, and I was feeling good about being

1 out again. I decided that I would just walk
2 around. I walked behind the apartment complex,
3 and I think I was on Mize Street. I walked down
4 the street until it came to another street, and
5 I turned and walked down another street.

6 "I was just walking down the street
7 when I noticed this guy standing in the doorway
8 of his house. It looked to me like he was
9 locking up for the night. This was late at
10 night, maybe 2:30 a.m. or so. I was not
11 looking to steal anything. I was just walking
12 down the street. I had over a hundred dollars
13 in my pocket from getting out of the joint. The
14 guy was tall and brownish hair. I think he had
15 on underwear, but I am not sure. When the guy
16 saw me walking down the street, he just folded
17 his arms and started staring at me. He looked
18 like he had an attitude. I stopped walking and
19 stared back at him. I asked him what was up. I
20 then asked him why he was staring at me. He
21 asked me what I was looking at and why I was
22 staring at the house. He then told me that I
23 needed to take my ass on down the road. I told
24 him that is what I was trying to do but that he
25 was staring at me. I also told him that he did

1 not own the street and that if I wanted to stand
2 there all day I would. I then told him that if
3 he had a problem he could come on out in the
4 street and we would take care of it. I did not
5 have any weapons of any kind. I had just got
6 out of the joint. When I told him to come
7 outside, the guy ran back in the house. I
8 thought he was going to get a gun. When I saw
9 him go back in the house, I ran around back of
10 the house. I don't know why I ran around
11 back. I did not try to go in the back door. I
12 then ran to the back. I then ran around to the
13 front of the house. The front door was open,
14 and I went inside. When I went in the front
15 door, there was a large family room. The
16 kitchen was back to the right. I did not see
17 the guy when I went in the house. I saw a
18 hallway to the left, and I went down the hallway
19 to a bedroom that had the door open. I noticed
20 a small room with a weight bench in it. I
21 picked up a small metal bar, and I walked back
22 to the family room. When I got back into the
23 family room, I could see the guy in the
24 kitchen. I saw the guy over by the sink. And
25 he took a knife out of a drawer. The guy then

1 started coming towards me with the knife. He
2 asked me what the fuck I was doing in his
3 house. I thought about running out the door but
4 he had me cut off. The guy came up on me with
5 the knife. I had the weight bar in my left
6 hand, but I am right handed. When he got up on
7 me, I hit the guy in the nose with my right
8 hand. I hit him several times. We started
9 scuffling in the hallway. I grabbed his hand
10 that he had the knife in so that he could not
11 stab me. I cannot remember what hand he had the
12 knife in. I know that when I grabbed at his
13 hand the first time I grabbed the knife itself
14 and I got cut on the right thumb. Anyway, we
15 were scuffling around and we ended up in the
16 open doorway to a large bedroom. I then hit the
17 guy in the head with the pipe that I had. I
18 hit the guy a couple of times, and he fell on
19 the bed. I hit the guy a couple more times with
20 the pipe while he was laying there. When I
21 started hitting the guy with the pipe, he
22 dropped the knife. The knife fell on the bed,
23 and I picked it up. I started stabbing the guy
24 then. I think that I stabbed the guy in the
25 side the first time, but I really don't

1 remember. I then stabbed him maybe five or six
2 times. I don't remember everywhere else I
3 stabbed him. The lights in the bedroom were off
4 and I really don't remember. I then got off
5 the guy, and another guy came through the
6 bedroom door. The guy said something, but I
7 don't remember what it was. This guy was
8 dressed only in his underwear. The guy then
9 hollered real loud. I jumped up and I still had
10 the knife in my hand. The guy started swinging
11 at me, and I started stabbing him. We went in
12 his bedroom, and I stabbed him some more. The
13 last time that I stabbed this guy I stabbed him
14 in the leg and the knife went flying out of my
15 hand.

16 "I then walked out of the bedroom, and
17 he slammed the door. The door to the second
18 guy's bedroom was closed when I first went into
19 the house and got into it with the first guy. I
20 guess that he heard what was going on and woke
21 up. The second guy was stronger than the first
22 guy, I know that. I then walked back into the
23 family room of the house. I took my boots off
24 and I set them in a small room that is just to
25 the right of the front door of the house. I

1 have been tracked by dogs before, and I thought
2 that they might get the scent off my boots when
3 I ran. I walked to the back door and thought
4 about going out that way but I saw the alarm box
5 with the lights, so I figured I better not go
6 out that way. I then went to the kitchen, and
7 the kitchen drawer was open. I saw the knives
8 in it. I grabbed one knife, then grabbed the
9 other one. I knew the last guy was still alive
10 and thought he might come out after me. That is
11 why I grabbed the knives. I went back down the
12 hallway, and I could hear the guy in the front
13 bedroom kind of whining. I could hear the guy
14 in the back bedroom kind of gurgling or
15 something. I went to the back bedroom, and
16 there were some clothes hanging on something in
17 the room. I had blood all over me, so I grabbed
18 them. It was some jeans and some kind of
19 button-up shirt. There was a wallet in the
20 jeans, and I think there were some keys. I am
21 not sure, but I think I felt the wallet as I was
22 getting ready to go out the door. I did not
23 want to take it with me, so I took the money out
24 of the wallet and threw it down there. I want
25 to say that the money was not the reason this

1 happened. I walked back to the living room area
2 and I picked up my boots and I walked out the
3 front door of the house. I do not know at what
4 point I got the blood on my socks, but I saw I
5 was leaving footprints on the driveway. I
6 remember thinking that the footprints were small
7 and that would throw the police off. I wear a
8 nine and a half shoe. I do not remember exactly
9 where, but I put my boots back on sometime after
10 I hit the street. I do not remember how I did
11 it, but I went through some weeds and ended up
12 at the back of a trailer park. I think it was
13 somewhere in there I got rid of the keys. I
14 walked down Smith Street to the Park Hollow
15 Apartments. I went to one of the abandoned
16 apartments. I do not remember the apartment
17 number, but it was downstairs. I got in through
18 a broken window. I changed into the guy's
19 clothes in a bedroom. I do not know why I did
20 it, but I put the socks in the little door where
21 the furnace is. I went out through the front
22 door and left it unlocked. I went to the
23 dumpster and stuffed the clothes in the
24 dumpster. I went to another abandoned apartment
25 and went in through the window again. I spent

1 the night there. I had also already showered in
2 the first apartment I had been in. I had to get
3 all the blood off of me. I got sick while I was
4 in the shower.

5 "I only slept for a few hours. I
6 guess I got up around nine a.m. I walked to the
7 back of the apartments and I saw the news
8 trucks. I just walked around hiding most of
9 the day. I went to a Chinaman's Restaurant on
10 Shaver sometime that afternoon. There was a
11 movie on, on Channel 13, and they had a news
12 brief and said that two brothers had been
13 killed. I did not know until then that the
14 second guy was dead. I think I left but came
15 back and watched the 5:00 news. He had the TV
16 up on a little stand, so that is how I saw it.

17 "Later that night, I went back to the
18 first apartment. I was going to clean the blood
19 up because I knew there had to have been some
20 there. I was going to get the socks. When I
21 got there, the window was fixed and the door was
22 locked, so I could not get in. I spent that
23 night in another apartment.

24 "Since that time, I have just been
25 hanging out wherever I could. I have been

1 selling blood or plasma to live off of. A few
2 days after it happened, I left my boots
3 somewhere around the apartment. I was afraid I
4 might have left some boot tracks somewhere at
5 the house.

6 "1 I have not told anyone else about
7 this. This has been bothering me ever since. I
8 got arrested last night burglarizing a school.
9 There was only one cop. I could have gotten
10 away, but I was just tired of running. Today I
11 decided to tell what happened. I called for a
12 jailer and told him I wanted to tell something
13 about the Allen brothers getting killed. He
14 said he could not get hold of a detective at
15 first, then one came down and said something
16 about me wanting to talk about a deputy getting
17 killed. I told him, no, that I wanted to talk
18 about the Allen brothers. He told me that it
19 was a Houston case and for me to tell him
20 something so the Houston detectives would know I
21 knew something. He took down a few notes. I
22 did not tell him that I had done it. Sergeants
23 Maxey and Kennedy came tonight, and I told them
24 that I did it.

25 My date of birth is 5/10/64. I just

1 noticed on the other pages that Sergeant Maxey
2 and Kennedy have spelled my middle name
3 A-l-l-e-n. It is spelled A-l-l-a-n. I have
4 gotten two GED's in prison as I went in under
5 two different names. I have been tested as
6 having 140 IQ.

7 Signed by Rick Allan Rhoades."

8 Q. Sergeant Kennedy, after you finished
9 taking the statement from this defendant -- let
10 me back up and ask you a few questions about
11 that statement. Did you manage to put every
12 word that this defendant told you in the written
13 statement?

14 A. No.

15 Q. When you had been at the scene on 624
16 Keith, was there some sunglasses recovered?

17 A. Yes, ma'am.

18 Q. Let me show you what is in evidence as
19 State's Exhibit 32. Do you recognize those?

20 A. Yes, I do. These are the sunglasses.

21 Q. Do you recall what room of the house
22 those were found in?

23 A. They were in the front bedroom where
24 Bradley Allen was found.

25 Q. At the time that you talked to this

1 defendant on October 11, at that point did you
2 have any idea whose sunglasses those were?

3 A. No.

4 Q. Or have any idea how they might have
5 gotten into the Allen brothers home?

6 A. No.

7 Q. Did the defendant tell you anything to
8 shed some light on that?

9 A. Yes, he did.

10 Q. What was that?

11 A. He told me he had lost his glasses
12 during the struggle with Bradley Allen, that he
13 had them in his pocket before he had ever gone
14 into the house and when he ran away from the
15 house he realized that the only thing he had
16 left in his pocket was an earpiece. The
17 sunglasses had broken away from the earpiece and
18 were still inside the house.

19 Q. So the sunglasses that you recovered
20 or saw there in Brad Allen's bedroom that you
21 have just identified, were they missing an
22 earpiece?

23 A. Yes.

24 Q. There were a couple of knives in
25 Charles Allen's bedroom. Do you remember seeing

1 those?

2 A. Yes, I do.

3 Q. Let me show you what is in evidence as
4 State's Exhibit 33. Do you recognize those as
5 the two knives that were on the floor in Charles
6 Allen's bedroom?

7 A. Yes, they are.

8 Q. Is that something that you had
9 attempted to process for fingerprints or asked
10 the laboratory?

11 A. Yes, ma'am.

12 Q. Did this defendant tell you anything
13 about those knives?

14 A. He told us that they were bloody and
15 that he had wiped the handles off.

16 Q. Did the defendant agree to show you
17 some of the places that he had described for you
18 in detailing his activity?

19 A. Yes, he did.

20 Q. Did you make arrangements to take him
21 with you after you had finished taking the
22 statement?

23 A. Yes. We checked him out of the
24 Pasadena jail in our custody.

25 Q. Was that still on October 11?

1 A. Yes, it was.

2 Q. Where was it that you went with this
3 defendant?

4 A. He took us out on South Shaver.

5 Q. Now, was this still you and Sergeant
6 Maxey and this defendant?

7 A. Yes, it was.

8 Q. What was he going to show you?

9 A. He showed us the Chinese restaurant
10 where he told us he had eaten and seen the news
11 reports of the murder on TV, showed us the
12 convenient store where he bought the beer that
13 he told us about. Also took us to the apartment
14 complex where he said he had been staying in the
15 abandoned apartment.

16 Q. Let me show you what I have marked for
17 identification purposes as State's Exhibits 82
18 and 83. Do you recognize those two scenes?

19 A. Yes, I do.

20 Q. Are those accurate depictions of the
21 location at the Pak & Go and the Chinese
22 restaurant that this defendant showed you?

23 A. Yes, they are.

24 Q. Let me also show you what has been
25 marked for identification as State's Exhibits

1 84, 85 and 86. State's Exhibits 84, 85 and 86,
2 are those accurate depictions of the area behind
3 and in the Park Hollow Apartments?

4 A. Yes, they are.

5 Q. Is that one of the locations that this
6 defendant took you to?

7 A. Yes, it is.

8 MS. DAVIES: Your Honor, I am offering
9 State's Exhibits 82 through 86 to defense
10 counsel and offer them into evidence.

11 MR. STAFFORD: No objection.

12 THE COURT: State's Exhibits 82
13 through 86 are admitted.

14 BY MS. DAVIES:

15 Q. Sergeant, I have an area diagram here
16 that we have marked as State's Exhibit 12. Do
17 you want to step down here? Maybe you can see a
18 little better. Keep your voice up if you
19 would. Can you point out for us 624 Keith
20 Street?

21 A. It would be right here.

22 Q. In fact, we have 624 written here.
23 The defendant, as he gave his statement,
24 describes a route that he took. He says I
25 walked behind the apartment complex. Did he

1 show you what apartment complex he was talking
2 about?

3 A. Park Hollow Apartments right here.

4 Q. You have to remember to keep your
5 voice up. There is a rectangle here I am going
6 to mark with a red x on it. That is the Park
7 Hollow Apartments?

8 A. Yes.

9 Q. He stated, "I walked behind the
10 apartment complex. I think I was on Mize
11 Street." Can you point out Mize Street for us?

12 A. Right here. North and south.

13 Q. Now, is it possible to get from the
14 back of that apartment complex to Mize Street
15 without going all the way around on the major
16 thoroughfares?

17 A. Yes.

18 Q. How could one do that?

19 A. All you have to do is walk to Smith
20 Street and, obviously, walk to Mize Street.

21 Q. Can you cut through the back of the
22 apartments here?

23 A. Yes.

24 Q. Let me show you State's Exhibit 84.
25 Can you tell us what scene that shows?

1 A. This is going to the end of the
2 parking lot at the Park Hollow Apartments.
3 Northeast corner right here.

4 Q. What direction would one be looking?

5 A. Looking east toward dead end of Smith
6 Street right there.

7 Q. State's Exhibit 84. I am going to
8 draw an arrow. You are looking this direction
9 toward the end of Smith Street; is that correct?

10 A. Yes.

11 Q. Now, there appears to be a metal bar
12 along here. There was something in the
13 defendant's statement about drinking beer. Was
14 there anything about this area that he pointed
15 out to you?

16 A. He told us this is where he sat on
17 this rail here and drank beer before the
18 incident occurred.

19 Q. Talking about this railing right here?

20 A. Yes.

21 Q. Right where you can cut through Smith
22 Street. There appears to be a fence there
23 between these apartments at Smith Street?

24 A. Yes.

25 Q. Can you get through there anyway?

1 A. Several places.

2 Q. Now, State's Exhibits 85 and 86, can
3 you tell us what that shows? First, 85.

4 A. 85, this is by the same parking lot on
5 the north side of the apartment complex. He
6 went -- looking at it like this, he went to the
7 left. If you are looking straight down Smith
8 Street, the rail where he sat and drank beer
9 would be down here.

10 Q. It's in back of these Park Hollow
11 Apartments?

12 A. That is correct.

13 Q. State's Exhibit 85. What about
14 State's Exhibit 86?

15 A. Same thing.

16 Q. Is that going the other direction?

17 A. Yeah, it's going the other direction.
18 This is going out back.

19 Q. About how many apartments are in the
20 Park Hollow Apartments?

21 A. I have no idea.

22 Q. More than one building?

23 A. Several different buildings.

24 Q. Did the defendant point out any
25 particular apartment to you as the one where he

1 had showered and changed clothes?

2 A. Apartment 1102.

3 Q. In fact, did you go into that
4 apartment with the defendant that night?

5 A. Yes, I did.

6 Q. You actually went inside the apartment
7 with him?

8 A. Yes.

9 Q. Did you gather any evidence at that
10 time?

11 A. No, we did not.

12 Q. Did you take any steps to get evidence
13 from apartment 1102?

14 A. Yes.

15 Q. What did you do?

16 A. The night in question we couldn't get
17 a CSU unit out there where we were because there
18 was too much going on that night. We made
19 arrangements the next day for CSU officer to
20 meet us out there at daylight, and we collected
21 some evidence.

22 Q. Do you recall who the crime scene
23 officer was who met you the next day?

24 A. I know his name.

25 MR. STAFFORD: You can refresh his

1 memory.

2 Q. Was it Officer Hilleman?

3 A. Yes, it was. Thank you.

4 Q. Let me show you State's Exhibits 82
5 and 83. Can you tell us first 83.

6 A. Shows intersection of Viceroy and
7 Shaver.

8 Q. Can you show us where that is on the
9 diagram?

10 A. Right here.

11 Q. I will write State's Exhibit 82. And
12 State's. No, that is wrong. That was State's
13 Exhibit 83; isn't it? And State's Exhibit 82,
14 where is that?

15 A. This is just a frontal shot of the
16 Pak & Go and the Chinese restaurant right here.

17 Q. What did the defendant point out to
18 you took place at those two locations?

19 A. He said he ate at the Chinese
20 restaurant and he saw news reports of the
21 murders on TV there, and he purchased the beer
22 that he drank at the Pak & Go.

23 Q. Now, that diagram makes it appear
24 these locations were virtually across the
25 street, maybe a block away from the Park Hollow

1 Apartments?

2 A. It's almost directly across the
3 street.

4 Q. You can have a seat.

5 You said that you had made
6 arrangements for a crime scene unit to go out to
7 apartment 1102. Did you accompany Officer
8 Hilleman?

9 A. Yes.

10 Q. When was that?

11 A. That was the next morning, on the twelfth.

12 Q. Were you present when he took some
13 photographs?

14 A. Yes.

15 Q. Did he take photographs and recover
16 some evidence from that location?

17 A. Yes.

18 Q. Did you make any arrangements to have
19 this defendant's footprints and fingerprints
20 taken?

21 A. Yes.

22 Q. What did you do?

23 A. Well, his fingerprints were readily
24 available. As far as his footprints, he told us
25 what size shoe he wore.

1 Q. Did you have Chuck Sheldon from the
2 latent print lab take any other prints from the
3 defendant?

4 A. I did not, no.

5 Q. Did you take any steps to obtain a
6 search warrant?

7 A. Yes.

8 Q. What did you do in that regard?

9 A. I myself and Sergeant Maxey elicited
10 your help and had a search warrant written up to
11 obtain a blood sample from Mr. Rhoades on the
12 28th of October after he was already transferred
13 over to the Harris County jail.

14 Q. There was a slight delay in getting
15 the search warrant?

16 A. Yes.

17 Q. Why was that?

18 A. We had a lot of stuff to do.

19 Q. Did you have that search warrant
20 signed then by the judge?

21 A. Yes, we did.

22 Q. And what was the search warrant for?

23 A. For blood sample.

24 Q. Why did you want to get a blood
25 sample?

1 A. So we could compare Mr. Rhoades' blood
2 to the blood that was found inside the kitchen
3 which we believed not to be that of either
4 complainant.

5 Q. When you were talking to Mr. Rhoades,
6 did he give any indication of what he thought
7 his blood type was?

8 A. Told me he thought his blood type was A.

9 Q. After you got the search warrant for
10 his blood, what did you do with that search
11 warrant?

12 A. We went to the Harris County jail,
13 made arrangements, before we got there, with
14 medical personnel, we brought Mr. Rhoades in
15 from his cell into the medical area or whatever
16 it is, hospital, and then we witnessed them take
17 blood from him.

18 Q. Were you actually present when the
19 medical technician drew the blood for comparison
20 purposes from this defendant?

21 A. Yes, I was.

22 Q. I want to show you -- I have two vials
23 of blood here. They are contained in plastic
24 envelopes that have been marked as State's
25 Exhibits 36 and 37. I think you can look

1 through the plastic there and look at the
2 labeling on those vials, please.

3 A. Yes.

4 Q. Look at both of them, if you will.
5 Have you had a chance to look at those?

6 A. Yes.

7 Q. You said that you were present while
8 the medical technician drew the blood. Whose
9 blood did they draw into those two vials?

10 A. Mr. Rhoades.

11 Q. Did you put any markings on these so
12 that you would be able to recognize them in the
13 future?

14 A. Yes, I put my initials on both of
15 them.

16 Q. Do you see those on that vial?

17 A. Yes.

18 Q. Are there any other identifiers that
19 you put on there so that you would be able to
20 identify these in the future?

21 A. Yes. The lab number of this case is
22 put on the vial. I was there when I turned them
23 over to the lab. I didn't actually put the
24 number on them.

25 Q. You wrote your initials on them?

1 A. Correct.

2 Q. And the lab technician, there is a
3 name written on there?

4 A. Yes.

5 Q. Do you see that? Who wrote the name
6 Robert Rhodea on there?

7 A. The technician in the Harris County
8 jail that actually took the blood.

9 Q. When you put your initials on these
10 vials, did you notice that the technician had
11 written an incorrect name on there?

12 A. No.

13 Q. What did you do with the two vials of
14 blood as soon as this defendant's blood was
15 drawn and placed in these two vials?

16 A. We left the Harris County jail and
17 went directly to the Houston Police crime lab
18 and turned them over to crime lab personnel.

19 Q. Did you keep these two vials of blood
20 that are contained in the envelopes marked
21 State's Exhibits 36 and 37 in your care, custody
22 and control from the time they were handed to
23 you in front of Mr. Rhoades at the jail until
24 the time you got to the laboratory?

25 A. Yes.

1 Q. Did you permit anything to happen to
2 those to change the contents?

3 A. No.

4 Q. In fact, how long was it from the time
5 you got this blood into your hands until you
6 went to the laboratory?

7 A. As long as it took to drive from the
8 county jail down here to downtown police
9 station, maybe five minutes at the most.

10 Q. What did you do with these two vials
11 of blood when you got over to the laboratory?

12 A. I turned them over directly to the lab
13 technician in the Houston crime lab.

14 Q. Did you give the lab technician any
15 information as to which case these belonged to?

16 A. Yes, I filled out a form.

17 Q. A submission form?

18 A. Yes.

19 Q. In fact, did you already have a case
20 number and a laboratory number in connection
21 with this case?

22 A. I didn't have a lab number. I had
23 the case number.

24 Q. Had laboratory work been done on this
25 case?

1 A. Yes.

2 Q. What is the case number on this case,
3 do you know that?

4 A. Not off the top of my head, no.

5 Q. I just handed you what is commonly
6 referred to as a blue back. What is that?

7 A. This is the Houston Police offense
8 report.

9 Q. When you start the investigation on a
10 case, do you have a case number?

11 A. Yes.

12 Q. What is the case number that you got
13 when you started the investigation on the Allen
14 brothers case?

15 A. 97682691.

16 Q. 97682691?

17 A. That is correct.

18 Q. So, when you took the two vials to the
19 laboratory, did you advise them that that was
20 the case number, your case number?

21 A. Yes.

22 Q. And they in turn have their own unique
23 lab number that is related to that case number;
24 is that correct?

25 A. That is correct.

1 Q. Once you turned those two vials over
2 to the laboratory, did you have anything more to
3 do with any testing or handle that piece of
4 evidence again?

5 A. No, I did not.

6 Q. You indicated that this defendant had
7 showed you a cut on his hand. Have you been
8 able to locate for me any photographs of that
9 cut?

10 A. I have not.

11 Q. Based on your recollection of the
12 appearance of that cut and based on your years
13 of experience as a homicide detective, was the
14 cut that you saw on this defendant's hand, was
15 it consistent with -- well, let me back up. Let
16 me withdraw that question and ask you this.
17 You had been at the scene. You had seen the
18 amount of blood at the scene. Based on your
19 years of experience in investigating homicides,
20 would you expect the person who inflicted the
21 wounds that you saw on Charles and Bradley
22 Allen, would you expect them to have much blood
23 on them?

24 A. Yes.

25 Q. Blood on their hands?

1 A. Yes.

2 Q. The wounds that you saw on this
3 defendant or the cut on his hand that he showed
4 you, let me show you what is in evidence as
5 State's Exhibit 26. The cut that he had on his
6 right hand, would it have been consistent with
7 someone with a wet, bloody hand as they are
8 stabbing, their hand slipping on the blade of
9 the knife and getting cut?

10 A. Yes.

11 Q. Would it also be consistent with
12 somebody grabbing a knife out of somebody else's
13 hand?

14 A. It's possible.

15 Q. Based on the evidence you saw at that
16 scene, in your experience which do you think is
17 more consistent?

18 MR. STAFFORD: That is basically
19 self-serving to the State. It could be equally
20 well to me, and I object to the speculation.

21 THE COURT: To the speculation, I will
22 sustain.

23 BY MS. DAVIES:

24 Q. My question is which is more
25 consistent?

1 MR. STAFFORD: Still speculation.

2 THE COURT: I still sustain the
3 objection.

4 BY MS. DAVIES:

5 Q. Sergeant Kennedy, let's go back to the
6 scene.

7 THE COURT: Ladies and gentlemen, we
8 are going to take a recess. Please go to the
9 jury room.

10 (Recess; after which, the following
11 proceedings were had:)

12 THE COURT: Proceed, please.

13 MS. DAVIES: Thank you, Your Honor.

14 Q. Sergeant Kennedy, I want you to help
15 us understand what it was you saw out there at
16 the scene on September 13 of 1991. Actually I
17 think it's going to be a little easier if you
18 would come around here by this diagram. Move so
19 the jury can see. Now, let's first look at
20 State's Exhibit 57. Actually we have several
21 photographs here, 57, 58, 59, 60, 61 and 62.
22 All appear to be scenes around the driveway.
23 Now, the driveway is not drawn on this
24 diagram. Can you show us what portion, where
25 it would be in relation to the front of the

1 house?

2 A. Coming straight off the side of the
3 house.

4 Q. I know the court reporter can't hear.

5 A. It's on the west side of the house
6 here, straight to Keith Street.

7 Q. Now, first you have got State's
8 Exhibit 57. What portion of the driveway does
9 that show, or what does that show?

10 A. This actually is not the driveway.
11 This is a sidewalk from the front door, comes
12 around to the west to the driveway. The front
13 door would have been right here.

14 Q. You're showing on the photograph
15 State's Exhibit 57?

16 A. Yes.

17 Q. Actually you were turning it. It
18 would probably be very helpful. So, if one was
19 looking at this photograph, State's Exhibit 57,
20 it would be where?

21 A. You would be standing here on the
22 driveway looking back to the east. The front
23 door would be right here.

24 Q. Let's put State's Exhibit 57 there
25 with an arrow back that direction. Is there

1 anything obvious on that photograph or anything
2 that caught your attention when you were
3 investigating the scene?

4 A. It's hard to see. Footprints coming
5 out the front door, down the sidewalk and out on
6 the driveway. Bloody footprints.

7 Q. Now, did you look at those just with
8 your naked eye?

9 A. Yes.

10 Q. Were you able to tell just by a visual
11 examination did those appear to be made by
12 somebody wearing a shoe or barefooted or someone
13 wearing socks?

14 A. They appeared to be made by someone
15 wearing socks. You could see the fabric in the
16 bloodstain.

17 Q. State's Exhibit 58. Can you tell us
18 what scene that shows?

19 A. This is the driveway that runs along
20 the west side of the house. This would be the
21 sidewalk that goes to the front door. This is
22 Keith Street out here. And kind of hard to see
23 again. You can see the bloody footprints coming
24 down the sidewalk on out the driveway to the
25 street.

1 Q. So, if one was looking at State's
2 Exhibit 58, you pointed in this area, would you
3 be looking toward Keith Street?

4 A. Yes.

5 Q. With an arrow in the direction you
6 would be looking. Does this photograph also
7 show footprints?

8 A. Yes, it does.

9 Q. Or, again, sock prints?

10 A. Yes.

11 Q. In fact, is that the way all the
12 prints at the house appeared to be that morning?

13 A. Yes.

14 Q. Anywhere in the entire scene, inside
15 or out, did you observe any bloody prints that
16 appeared to be made by somebody wearing shoes?

17 A. No.

18 Q. Or by anybody who was barefooted?

19 A. No.

20 Q. You indicated there were bloody
21 footprints on this driveway. What direction
22 were those prints leading?

23 A. North.

24 Q. Was that toward the house or away from
25 the house?

1 A. Away.

2 Q. State's Exhibit 59, what does that
3 show?

4 A. This is the close-up of the bloody
5 prints. This is the driveway. Prints head
6 north to the street. I am not sure of what
7 portion of the street.

8 Q. Is that a closer up of State's Exhibit
9 58?

10 A. Yes. I am not sure which area it is.
11 It appears to start right here.

12 Q. Are those footprints leading away from
13 the house?

14 A. Yes, they are.

15 Q. This is also you are saying would be
16 on the driveway heading the same direction?

17 A. Yes.

18 Q. Look at State's Exhibit 60. Can you
19 tell us where that picture is taken?

20 A. This picture has been taken from north
21 to south like you are standing on the street out
22 here, taking the picture down the driveway.

23 Q. Still a picture of the driveway, though?

24 A. Yes.

25 Q. Just the opposite direction. Are the

1 footprints visible in that photograph?

2 A. Yes, they are.

3 Q. I noticed there appears some trash and
4 debris here. Do you recall where that was
5 located at the house?

6 A. Down here on the west side of the
7 driveway on the far west side of the property
8 line over here like utility toward the house was
9 recently built, and this was construction trash.

10 Q. Was this nearer the street, the
11 construction trash?

12 A. Yes.

13 Q. State's Exhibit 61, can you tell us
14 where that was taken?

15 A. It's another portion of the driveway.
16 It would be heading away from the house. I am
17 not sure exactly where it is.

18 Q. 61 looking, is it still toward the
19 street?

20 A. Yes.

21 Q. Just another portion of the driveway.
22 And can you tell us what State's Exhibit 62 is?

23 A. That is a close-up of the bloody
24 footprint. You can see the fabric detail in it.

25 Q. I notice there is a ruler in that

1 photograph, State's Exhibit 62. Did this appear
2 to be taken on the driveway also?

3 A. Yes.

4 Q. What is this, just the ruler here, is
5 that something somebody laid out next to that
6 print?

7 A. Assume Officer Jordan or somebody at
8 the crime lab did that to get the size of the
9 footprint.

10 Q. At some point in your investigation
11 out there, did you actually measure the distance
12 between the prints on that driveway?

13 A. My partner, Sergeant Maxey, did.

14 Q. And what was the purpose in doing
15 that, do you know?

16 A. We had hoped we could determine the
17 size of the person by his stride.

18 Q. His stride, the distance between the
19 foot steps?

20 A. Yes. We didn't have much luck with
21 that.

22 MS. DAVIES: Your Honor, at this time
23 may we pass State's Exhibits 57 through 62 to
24 the jury?

25 THE COURT: You may.

1 MS. DAVIES: Your Honor, at this time
2 -- I think we failed to pass these yesterday
3 when they were identified. If I can, I would
4 like to also at the same time pass the tiles and
5 the impressions of the defendant's foot that
6 were offered into evidence.

7 THE COURT: The tiles are State's
8 Exhibit 42.

9 MS. DAVIES: And the two impressions
10 of the defendant's left foot, 53 and 54.

11 Q. Sergeant Kennedy, let me show you
12 State's Exhibit 63. Can you tell us what room
13 that shows?

14 A. This is a shot of the room where the
15 piano is like standing in the living room. Side
16 of the porch looking back to the area here.

17 Q. Looking through this doorway here?

18 A. Correct.

19 Q. 63 looking into the piano room?

20 A. Yes.

21 Q. And there is, looks like there is
22 carpet area and a hard floor area. Where would
23 the hard floor area be?

24 A. Right here.

25 Q. The entry hall?

1 A. Yes.

2 Q. And then look at State's Exhibit 64.
3 Tell us what room that shows.

4 A. That is the living room.

5 Q. What direction would that be looking,
6 would you show us?

7 A. Basically looking from southwest to
8 northeast. Here is the room that leads, hallway
9 to the two bedrooms. This door right here. If
10 you were standing in this corner of the room
11 looking in this direction.

12 Q. Let me be sure I understand. State's
13 Exhibit 64 would be taken from this direction;
14 am I right?

15 A. Correct.

16 Q. Looking across the room?

17 A. Correct.

18 Q. And there is a door right here. Is
19 this the doorway leading where?

20 A. To the hallway which leads to the
21 bedroom.

22 Q. State's Exhibit 65. What portion of
23 what room does that show?

24 A. This is also a shot in the living room
25 of the sofa area. Where the tennis shoes are is

1 right to the entrance to the kitchen.

2 Q. Looking toward the kitchen, breakfast
3 room area?

4 A. Yes, ma'am.

5 Q. This living room area had carpet on
6 it; is that correct?

7 A. Yes.

8 Q. So when we see a change in flooring on
9 these pictures, the carpeted area is going to be
10 the living room?

11 A. Yes.

12 MS. DAVIES: Your Honor, with the
13 court's permission, I will just show these
14 photographs to the jury.

15 Q. The areas that are shown in these
16 photographs, Sergeant Maxey, was there
17 significant bloodstains that you noticed on the
18 carpet on the floor?

19 A. Yes.

20 Q. Back up then. Show us where. Where
21 did you see on the floors in these photographs
22 bloodstains?

23 A. Looking leading from this door over to
24 the foyer area.

25 Q. I'm sorry, I couldn't hear you.

1 A. They led from the door that leads to
2 the hallway, around the sofa into this area
3 where the foyer and the piano is.

4 Q. Now, as I look at that photograph,
5 it's not easy for me to see that. Do you see
6 it on the photograph?

7 A. No, I cannot.

8 Q. Are you telling us that out at the
9 scene, though, you could see, what, just like
10 bloody footprints?

11 A. Yes.

12 Q. Was the blood as easily visible in
13 those prints as it was in the other, say, for
14 instance, the ones that you have showed us on
15 the driveway?

16 A. No.

17 Q. Let's look at State's Exhibit 66. Can
18 you tell us what room that is taken in?

19 A. This is in the weight room.

20 Q. Hold that up for me.

21 A. This is a picture of the weight bench
22 right here and window behind it.

23 Q. So, State's Exhibit 66, what direction
24 would one be looking in that photograph?

25 A. North.

1 Q. And what is State's Exhibit 67 a
2 picture of?

3 A. I think that is a picture of the
4 bathroom.

5 Q. This hall bathroom?

6 A. Yes.

7 Q. State's Exhibit 67?

8 A. Yes.

9 Q. Would that be looking from the hall
10 toward the wall or toward the side of the house?

11 A. Yes, it would.

12 Q. Look at 68 and 69. Tell us what rooms
13 those are.

14 A. This was the back bathroom back here.

15 Q. The master bath?

16 A. Yes, it is. This is the tub right
17 here.

18 Q. That is 69?

19 A. Right.

20 Q. What is 68?

21 A. This is the lavatory.

22 Q. Lavatory.

23 A. Sink.

24 Q. Was there a mirror over that lavatory?

25 A. Yes, there is.

1 Q. Part of the room is reflected in the
2 mirror; is that correct?

3 A. Yes, it is.

4 Q. Again, with the court's permission and
5 your assistance, if you will hold these two of
6 the master bath, 68 and 69, I will hold the
7 pictures of the weight room and the hall bath,
8 and we will show those to the jury.

9 When you looked in the weight room,
10 did you see any blood or any significant
11 evidence in that room?

12 A. No.

13 Q. Were the weight bars and weight
14 equipment in that room?

15 A. Yes, there were.

16 Q. When you looked in the master
17 bathroom, did you see any signs of blood or
18 struggle or any evidence of significance in
19 there?

20 A. No.

21 Q. What about this hall bathroom? Did
22 you see anything of significance in there?

23 A. There were a few specks of what
24 appeared to be dried blood on the carpet right
25 in front of the sink.

1 Q. Just a few specks?

2 A. Right here on the floor.

3 Q. Stand back, be sure the jurors over
4 here can see. I know we have too many people in
5 too small a space.

6 A. Right here on the carpet right in
7 front of the sink.

8 Q. Compared to the quantity of blood in
9 the other portions of the house, was this
10 considerably less, or how would you characterize
11 it?

12 A. Just a couple of little flecks.
13 Almost insignificant, but I did find them there
14 on carpet.

15 Q. And they were dried?

16 A. Yes, they were.

17 Q. Now, I think you had indicated, that
18 when you first went into the house, the door to
19 Brad's room you could not open?

20 A. No.

21 Q. Is that correct? Let me show you --
22 what does State's Exhibit 70 show?

23 A. That is a picture of the door right
24 here.

25 Q. From what location?

1 A. From the hallway.

2 Q. Is that before anybody actually opened
3 that door?

4 A. Yes.

5 Q. State's Exhibit 70. Would you
6 describe for the jury what it was you saw on
7 that closed door?

8 A. Blood.

9 Q. Was there blood on the wall?

10 A. Yes, there was.

11 Q. What about on the floor?

12 A. Yes, there was.

13 Q. Which window was it that you went in
14 to get into Brad's room?

15 A. There were three windows on the north
16 wall of the room. I don't remember exactly
17 which one I broke. I broke one to get in.

18 Q. Once you were inside, can you tell us,
19 looking at State's Exhibit 71, what area of the
20 room that shows?

21 A. This is chest-of-drawers right here.

22 Q. What direction is that looking?

23 A. Taken from like this wall looking back
24 to the north.

25 Q. That is 71. State's Exhibit 72, can

1 you tell us where that shot was taken?

2 A. Taken right here.

3 Q. And 73?

4 A. Same area, different direction.

5 Q. State's Exhibit 73, does that show the
6 inside of the door that was closed to Brad's room?

7 A. Yes, it does.

8 Q. Does that also show some glasses?

9 A. Shows two pair of glasses.

10 Q. Keep your voice up for all the jurors
11 and the court reporter.

12 A. Shows a pair of prescription glasses
13 up here on top of a chest-of-drawers and pair of
14 sunglasses on the floor.

15 Q. The sunglasses that are on the floor,
16 are those the broken sunglasses that you
17 identified for us earlier?

18 A. Yes, they are.

19 Q. State's Exhibits 74 and 75 and 76.
20 Can you tell us what areas those are?

21 A. These are the pictures of the body of
22 Bradley Allen in the same room.

23 Q. From different angles?

24 A. Yes.

25 Q. State's Exhibit 75, does it also show

1 a weapon?

2 A. Shows a knife laying on top of the bed
3 here.

4 Q. Is this it right here?

5 A. Yes, it is.

6 Q. I am going to circle it. Let me show
7 you this knife. Is this the knife that is shown
8 in those photographs that you found there on the
9 bed by Brad?

10 A. Yes, it is.

11 Q. Can you tell us, based on your
12 experience, whether a knife such as this State's
13 Exhibit 29, if it's used to stab someone such as
14 Bradley Allen was stabbed, is this in your
15 opinion a deadly weapon?

16 A. Yes, it is.

17 Q. Is a knife such as this capable of
18 causing serious bodily injury and death?

19 A. Yes.

20 Q. Is this knife bent?

21 A. Yes, the blade is bent.

22 MS. DAVIES: Your Honor, I would ask
23 that State's Exhibits 70 through 76 be passed to
24 the jury.

25 THE COURT: They may be.

1 BY MS. DAVIES:

2 Q. Sergeant Kennedy, Brad Allen was still
3 crouched there by, kneeling there by the door
4 when you went into the bedroom; is that right?

5 A. Yes, he was.

6 Q. According to the pictures, there
7 appears to be a pillow that he was clutching?

8 A. Yes.

9 Q. Did you see his injury in terms of
10 near the pillow that he was clutching?

11 A. Yes.

12 Q. What is your observation?

13 A. He had a large wound to his mid
14 section or side.

15 Q. Was there anything protruding from
16 that wound?

17 A. His intestines.

18 Q. In the hallway outside of Bradley
19 Allen's room, can you tell the jury what you
20 observed?

21 A. Well, the carpet, there was blood on
22 the carpet. The walls were just covered with
23 blood and pieces of human tissue. I don't know
24 whether they were skin, intestines, whatever,
25 just meat basically were on the walls here.

1 Q. In a minute we will look at this
2 video. Are there some scenes on the video that
3 depict accurately what you saw on the walls in
4 the hallway?

5 A. Yes.

6 Q. When you went into Charles Allen's
7 room, looking at State's Exhibit 77, without
8 showing it yet, 78, can you tell us first what
9 portion of the room does State's 77 show?

10 A. This is a shot of here. This is a
11 shot of the bed and the body of Charles Allen
12 taken from west to east, this direction.

13 Q. That would be State's Exhibit 77
14 looking toward the foot of the bed; is that
15 correct?

16 A. That is correct.

17 Q. Now, there is in the photograph here,
18 in the picture there is something drawn here. I
19 think it says tripod, sound system. Is this
20 tripod shown in the photograph, State's Exhibit 77?

21 A. Yes, it is.

22 Q. Was that near Charles' head?

23 A. Yes.

24 Q. Do you know what that is?

25 A. I don't know what -- this is like a

1 rack of keyboard and stuff. Musical
2 instrument.

3 Q. The apparatus near Charles' head for
4 musical instruments, is that also shown in
5 State's Exhibit 78?

6 A. Yes, it is.

7 Q. And now tell us what direction State's
8 Exhibit 78 is taken from.

9 A. It's another shot of the bed and body
10 taken from this direction. Northwest and
11 southeast.

12 Q. This direction?

13 A. Yes.

14 Q. Let's write 78 there. Here in the
15 lower right-hand corner of 78, there is
16 something sticking up. Can you tell me what
17 that is?

18 A. Neck of a guitar.

19 Q. Where in the room would that guitar be?

20 A. Sitting on a stand right next to the
21 north wall of the bedroom.

22 Q. If I write guitar right here, would
23 this be the area where the guitar is?

24 A. Yes.

25 Q. It was upright in a stand?

1 A. Yes.

2 Q. Was there more than one guitar in the
3 room?

4 A. There was another guitar and another
5 stand right here by this one, but this second
6 guitar was lying on the side like it had been
7 knocked out of the stand.

8 Q. One upright and one laying on the side?

9 A. Yes.

10 Q. Is the second one lying on the side
11 shown in these photographs of the bedroom?

12 A. No.

13 Q. When we look at the video, will you be
14 able to point it out for us?

15 A. Yes.

16 Q. There were two guitars right over
17 here; is that right?

18 A. Yes.

19 Q. Tell us what portion of the room
20 State's Exhibit 79 shows.

21 A. Another shot of the bed and body taken
22 from behind the keyboard rack in this direction.

23 Q. This direction?

24 A. Yes.

25 Q. And are there some weapons shown on

1 the floor?

2 A. Yes, two knives, a dumbbell bar or
3 weight set laying here at the foot of the bed.

4 Q. And are those items, this weight bar
5 State's Exhibit 31?

6 A. Yes.

7 Q. And these two knives that are in
8 evidence as State's Exhibit 33?

9 A. Yes, they are.

10 Q. Was there another weapon found in
11 Charles' room?

12 A. Yes, there was.

13 Q. What was that?

14 A. The second what appeared to be weight
15 bar found underneath his body on top of the bed.

16 Q. In this location?

17 A. Yes.

18 Q. But under the body?

19 A. Yes.

20 Q. Do you see that weight bar in the
21 photograph, State's Exhibit 80?

22 A. Yes.

23 Q. Let me give you -- take this little
24 red arrow, if you would, and try to place it
25 where you don't cover up anything.

1 A. It's a little difficult to see, but
2 it's right under the right forearm.

3 Q. So you have placed a red arrow on the
4 photograph State's Exhibit 80 to denote where
5 that weight bar is?

6 A. Yes.

7 Q. I believe that was State's Exhibit
8 30. Tell us what the last photograph is,
9 State's Exhibit 81 is?

10 A. This is a picture of this corner of
11 the bed taken from this direction. Shows the
12 wallet, the barbell and the two knives.

13 Q. Taken this direction pointing up this
14 way?

15 A. Well, here.

16 Q. Okay. That is 80; is that correct?

17 A. 81.

18 Q. 81. Thank you. I believe the one
19 that you pointed out the barbell was State's
20 Exhibit 80.

21 Now, you mentioned a wallet on the
22 floor. In this photograph it shows the wallet.
23 And where on the diagram, State's Exhibit 10, is
24 that wallet?

25 A. This is the wallet, the brown wallet.

1 Blue checkbook laying relatively close to each
2 other.

3 Q. Was there any money at all in the
4 wallet?

5 A. No, there was not.

6 Q. Was there any identification or credit
7 cards?

8 A. Charles Allen's wallet had credit
9 cards and driver's license in it.

10 MS. DAVIES: Your Honor, I would ask
11 that State's Exhibits 77 through 81 be passed to
12 the jury.

13 MR. STAFFORD: I would like to suggest
14 to the court to instruct the jury for those
15 members who wish not to view these pictures at
16 this time can elect not to.

17 THE COURT: There is nothing to
18 prevent the jury from passing them on if they
19 wish to do so.

20 MR. STAFFORD: I ask if they do not
21 want to view them.

22 THE COURT: They are being passed to
23 the jury. Please pass them to the jury.

24 That includes 77 through 81, Ms.
25 Davies?

1 MS.. DAVIES: Yes.

2 THE JUROR: Could you move the diagram
3 up a little closer, please?

4 BY MS. DAVIES:

5 Q. Sergeant, I want to call your
6 attention to these two weight bars, State's
7 Exhibits 30 that you pointed out was found under
8 Charles' body and State's Exhibit 31 that was on
9 the floor. If either one of these bars were
10 used to hit someone in the head the way Charles
11 Allen was struck in the head, would either one
12 of these bars be capable of causing serious
13 bodily injury or death?

14 A. Yes.

15 Q. Would they be deadly weapons?

16 A. Without a doubt.

17 Q. These two knives, State's 33, that
18 were found on the floor in Charles Allen's room,
19 would either of these knives be capable of
20 causing serious bodily injury or death?

21 A. Yes, they would.

22 Q. Would they also be deadly weapons?

23 A. Yes, they would.

24 Q. Let me show you what I have marked for
25 identification purposes as State's Exhibit 88.

1 Would you look at that? Tell us whether you
2 recognize that.

3 A. Yes, it's the wallet of Charles Allen.

4 Q. Is that the wallet that you described
5 as being on the floor in his room?

6 A. Yes, it is.

7 MS. DAVIES: Your Honor, I am
8 tendering State's Exhibit 88 to defense
9 counsel. I would offer it into evidence. I
10 would ask for the record to be permitted to
11 substitute a photograph.

12 THE COURT: Any objection?

13 MR. STAFFORD: No, Your Honor. Well,
14 just a minute. Yes, Your Honor.

15 (Off-the-record bench conference).

16 MS. DAVIES: At this time I would like
17 assistance in moving the TV over closer.

18 THE COURT: Is there going to be any
19 narration?

20 MS. DAVIES: I will have some
21 questions for Sergeant Kennedy while it's going
22 on.

23 Q. Sergeant Kennedy, do you want to use
24 this control so that I can -- is there any sound
25 to this?

1 A. No.

2 (Video being shown)

3 BY MS. DAVIES:

4 Q. What street is that?

5 A. Keith Street. That is the driveway
6 leading to the house, Allen brothers' house.

7 I think this is attempting to show you
8 the bloody footprints, but they are not coming
9 out very well on this video.

10 Q. Do they show up better in the still
11 photographs?

12 A. Yes, they do.

13 Q. Who was taking this video?

14 A. Officer Jordan.

15 Q. Do you know what those boxes are
16 sitting out there?

17 A. That is part of the construction trash
18 that was on the west side of the driveway.

19 That is the front door of the house.

20 That is the sidewalk that leads to the
21 driveway.

22 Q. What is that?

23 A. Ever now and then I can pick up one of
24 the bloody prints in the video, but they are
25 really kind of hard to see. That is a good

1 one.

2 Q. Leading toward the street?

3 A. They are a little bit better defined.
4 They are leading north toward the street.

5 Q. Are those police cameras out in the
6 street?

7 A. No, those are news media.

8 Close-up of the same footprints.

9 That is the front door of the house
10 here.

11 This is the back of the house. That
12 is the back door that leads into the kitchen.

13 That right there is the sound studio
14 located in the rear of the house on a vacant lot
15 behind the house.

16 This is Charles' truck, and Brad had a
17 motorcycle parked back there.

18 This is the rear of the house near
19 Brad's motorcycle.

20 This is Jordan running with the
21 camera.

22 This is the sidewalk that leads to the
23 front door again.

24 Some more shots of the footprints
25 going out to the driveway.

1 Q. What room of the house are we in now?

2 A. This is Charles Allen's bedroom. This
3 is his bed and this is his body.

4 Q. Is all that sound equipment there?

5 A. Yes.

6 Q. What is that against the wall?

7 A. That is all his musical equipment.

8 This is the door that leads into the
9 bathroom.

10 Q. What is that?

11 A. That is a bunch of his personal papers
12 and belongings that hadn't been unpacked.

13 Q. Where does that door lead?

14 A. From Charles' bedroom to the backyard.

15 Q. Stop.

16 A. Okay. This is the doorway that leads
17 to the hall to Brad's room.

18 Q. Now, what is -- the picture is kind of
19 shimmying as you stop. Can you tell us what
20 that is? What are we seeing right there?

21 A. Blood spatters.

22 Q. On the diagram, can you show us where
23 those blood spatters are? Using this red
24 marker. Just the section of the wall, if you
25 can.

1 A. Right here.

2 Q. Okay. Now, start it up again. Do you
3 get to see that second guitar you were telling
4 us about? Point it out to us.

5 A. This is the guitar stand that it was
6 on. I think this is the neck of the guitar
7 here. Now you can see it a little better.

8 Q. That music rack right there, were
9 there blood spatters there?

10 A. Yes.

11 Q. What, on the wall in Charles' room?

12 A. Yes, there were splatters on the wall
13 behind the headboard.

14 Q. Is this the way the covers were on the
15 bed?

16 A. Yes. This is the guitar. This is the
17 guitar laying on the floor.

18 Q. Is there blood on both of those
19 pillows?

20 A. Yes, there is blood all over the bed.

21 Q. Blood on the carpet. Is that the
22 doorway of Charles' room leading to the hall?

23 A. This is the doorway that leads to the
24 hall down to Brad's room.

25 Q. Now, in comparison to the amount of

1 blood that was in the doorway, is there any
2 significant amount of blood on the carpet
3 otherwise in Charles' room?

4 A. No, not like there was in the
5 doorway.

6 Q. Who is that?

7 A. I don't know. This is the weight bar.

8 Q. What is that near Charles' foot?

9 A. Looks like a clock radio.

10 Q. Stop.

11 A. This is the hallway. This is the
12 hallway wall. This is the entrance to the
13 bathroom.

14 Q. I want you to show us on the diagram
15 where this blood is.

16 A. Located right here in this area.
17 Closer to the door but in this area here.

18 Q. Close to the hall bathroom door?

19 A. Right. In this direction.

20 Q. Okay. That is on the same wall?

21 A. Yes.

22 Q. Is there anything in that little box
23 there on that vanity?

24 A. No.

25 Q. Was it empty?

1 A. I don't know. I do not know whether
2 anything was in there.

3 Q. Are we getting to the area where there
4 are little specks of blood?

5 A. Yes, this is the inside of the hallway
6 bathroom. Really nothing of importance there
7 except for couple of specks of blood on the
8 floor.

9 This is back into the hallway.

10 Q. Stop. What portion of the hallway is
11 that?

12 A. This is going to be back in here.

13 Q. On the opposite side of the wall?

14 A. Yes.

15 Q. It looks like there is a doorway
16 opening shown?

17 A. That is going to be this doorway right
18 here.

19 Q. Into the living room?

20 A. Yes. This is the door to Bradley
21 Allen's room.

22 Q. Stop it. Back up. Right there.
23 Where is that blood that is shown on the wall?

24 A. Be right here.

25 Q. You are using the red marker. Okay.

1 This is before you had gone in through the
2 window?

3 A. Correct. You can see the body through
4 the doorway there, but you can't open the door
5 completely.

6 This is the bed. I don't know what
7 he is trying to pick up.

8 Q. Still looking through the crack in the
9 door?

10 A. Right.

11 Q. Are those other detectives?

12 A. Other homicide detectives.

13 This is the weight room.

14 Q. Who is that? Is that Sergeant Massey?

15 A. One of those is my partner.

16 Q. Stop. Where is that?

17 A. I am not sure.

18 Q. Is that all inside Brad's room? Back
19 out in the hall?

20 A. That is in the hallway.

21 Q. Can you show us on the diagram where
22 that was?

23 A. It would be back in this area
24 somewhere here. I am not sure which side it was
25 on. Blood on the hallway.

1 Q. On this hallway wall?

2 A. Yes.

3 Q. So there was blood, the blood spatters
4 are on both sides of the wall in that hallway?

5 A. Yes.

6 This is inside Bradley's room.
7 Chest-of-drawers. These are his eyeglasses.
8 These are the sunglasses we were talking about
9 earlier. This is the front door. The door to
10 his bedroom, rather.

11 Q. Was there blood on Bradley's glasses?

12 A. These are sunglasses. This is a knife
13 laying on top of Brad's bed.

14 (End of video).

15 MS. DAVIES: Pass the witness.

16 MR. STAFFORD: I respectfully reserve
17 my right to cross at a later time, judge.

18 THE COURT: You may stand down.

19 MS. DAVIES: State's next witness will
20 be Officer Hilleman.

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KEN HILLEMAN

was called as a witness by the State and, having
been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CONNORS:

Q. Sir, could you state your name?

A. Ken Hilleman.

Q. Where do you work?

A. I am an officer with the Houston
Police Department.

Q. How long have you worked for the
Houston Police Department?

A. Eleven years.

Q. What particular division of the
Houston Police Department were you assigned to
back in September of 1991?

A. I was assigned to the homicide
division crime scene section.

Q. How long had you been in the crime
scene section?

A. Nine years.

Q. Have you since left the crime scene
section?

A. Yes, ma'am, I have.

Q. When was that?

1 A. Last week.

2 Q. Where do you work now?

3 A. I am assigned to the homicide division
4 major assault squad.

5 Q. Officer Hilleman, directing your
6 attention back to October 12 of 1991, were you
7 involved in the investigation of the capital
8 murder of Ricky Rhoades?

9 A. Yes, ma'am, I was.

10 Q. Were you asked to go to 4343 South
11 Shaver, the Park Hollow Apartments?

12 A. Yes, ma'am, I was.

13 Q. Approximately what time was it that
14 you were dispatched there?

15 A. It was 8:24 a.m.

16 Q. Who were you to meet?

17 A. Sergeant Rick Maxey.

18 Q. When you got there, was Sergeant
19 Kennedy also there?

20 A. No, he was not.

21 Q. Just Sergeant Maxey?

22 A. That is correct.

23 Q. Before you got to the Park Hollow
24 Apartments, did you go anywhere else?

25 A. Yes, ma'am, we went to a strip

1 shopping center in the 4200 block of South
2 Shaver.

3 Q. Did you take any photos?

4 A. Yes, I did.

5 Q. What did you take photos of?

6 A. There was a convenient store and a
7 little Dragon Express Chinese food restaurant
8 there.

9 Q. Was the convenient store named
10 Pak and Go?

11 A. Yes, it was.

12 Q. Was that located at 4204 South Shaver?

13 A. Yes, ma'am, it was.

14 Q. And next door was the Chinese
15 restaurant, the Dragon Express?

16 A. That is correct.

17 Q. After you took photographs of the
18 convenient store and the Chinese restaurant,
19 what did you do next?

20 A. We left the convenient store and went
21 to the apartment complex.

22 Q. What did you do when you got to the
23 apartment complex?

24 A. We proceeded to apartment 1102.

25 Q. How did you get in the apartment?

1 A. There was a gentleman that we met
2 there that had a key, and also the windows to
3 the apartment were open.

4 Q. Officer Hilleman, let me show you what
5 has been marked for identification purposes only
6 as State's Exhibits A-10, 11, 12, 13, 14, A-15,
7 A-16, A-17, A-18. Do you recognize State's
8 Exhibits A-10 through A-18?

9 A. Yes, ma'am, I do.

10 Q. Did you take these photographs of
11 apartment 1102 at the Park Hollow Apartments?

12 A. Yes, ma'am, I did.

13 MS. CONNORS: Your Honor, at this time
14 I tender to defense counsel for his inspection
15 A-10 through A-18 and ask that they be admitted
16 into evidence.

17 MR. STAFFORD: I have no objection.

18 THE COURT: State's Exhibits A-10
19 through A-18 are admitted.

20 BY MS. CONNORS:

21 Q. When you were at apartment 1102, did
22 you also gather evidence?

23 A. Yes, ma'am, I did.

24 Q. Let me show you State's Exhibit A-1.
25 That is evidence envelope with your name, case

1 number assigned this case, the date of October
2 12, capital murder at 624 Keith. All the
3 information that pertained to this case; is that
4 correct?

5 A. Yes, ma'am.

6 Q. And you took the evidence that you
7 found, which is labeled A-2 through A-6, and you
8 placed it in the evidence envelope A-1; is that
9 correct?

10 A. That is correct.

11 Q. What did you do with all the evidence
12 that you placed in this evidence envelope?

13 A. Went to the property room.

14 Q. Let me show you what has been
15 introduced into evidence as A-2. What is that?

16 A. It's a piece of kleenex or tissue
17 paper that I collected from the living room
18 floor of apartment 1102.

19 Q. Does it appear to have blood on it?

20 A. Yes, it does.

21 Q. State's Exhibit A-3, what is that?

22 A. It's a piece of pipe insulation that
23 was recovered from the bedroom floor at
24 apartment 1102.

25 Q. Does it appear to have blood on it?

1 A. Yes, it does.

2 Q. And State's Exhibit A-4, what is that?

3 A. It's a sock that was recovered from
4 the area where the furnace used to be in 1102.
5 It's a closet, the furnace had been removed, and
6 the sock was laying inside the closet.

7 Q. And the contents of State's A-5?

8 A. It's a blood sample from the shower
9 wall that was scraped by the shower wall by
10 myself and placed in that glossy envelope.

11 Q. State's Exhibit A-6, what are the
12 contents of A-6?

13 A. It's another blood sample from the
14 windowsill from the bedroom that was scraped
15 into the glossy envelope by myself in apartment
16 1102.

17 Q. And A-7, did you also gather A-7?

18 A. That's the venetian blind from the
19 bedroom window from apartment 1102.

20 Q. State's Exhibit A-11, you seem to be
21 pointing. Is that you?

22 A. No, ma'am, I believe that was the
23 other person that was present at the time.

24 Q. They are pointing to something on the
25 mini blind; is that correct?

1 A. Pointing to the blood that is on the
2 mini blind.

3 Q. Can you put an arrow where what
4 appeared to be blood was on the mini blind that
5 you saw? State's Exhibit A-12 is a picture of
6 the windowsill where the mini blind was; is that
7 correct?

8 A. That is correct.

9 Q. Is that from the outside looking in?

10 A. Yes.

11 Q. Can you show us where the blood would
12 have been on State's Exhibit A-12 marked by the
13 red arrow?

14 (Witness complied).

15 Q. A-13 and A-14. What does A-13 show?

16 A. A-13 shows the blood on the shower
17 wall and standing a little bit back away from
18 the wall. A-14 is a close-up of the blood on
19 the shower wall.

20 Q. Would you put an arrow where the blood
21 appears to be on A-13?

22 And A-15 and A-16, what does A-15
23 show?

24 A. A-15 is the blood on the shower wall.
25 Again I am standing back away from the wall so

1 you can see the area where the blood is. And
2 A-16 is a close-up of the blood on the shower
3 wall.

4 Q. Would you put an arrow on A-15
5 pointing towards the blood.

6 And A-18, what is that a picture of?

7 A. It's some blood on the wall, on the
8 outside wall going into the bathroom.

9 Q. Does it appear to be blood in more
10 than more than one place, or is it just one
11 place?

12 A. There looks to be two drops on the
13 wall, two areas where there is blood on the
14 wall.

15 Q. Can you mark those areas, please?

16 And A-3 is the styrofoam pipe
17 insulation that is shown in State's Exhibits
18 A-18?

19 A. Yes, it is.

20 Q. Can you mark that with a red arrow
21 that says A-3, please?

22 Could you step down so we can show the
23 jury, please?

24 What does A-10 show?

25 A. It's the front door to apartment 1102.

1 Q. A-11 is what, sir?

2 A. A-11 is the photograph of the venetian
3 blinds with the blood on the blinds, photograph
4 taken from the outside looking in.

5 Q. A-12, what does that show?

6 A. That is the blood on the windowsill.
7 Again the photograph is taken from the outside
8 of the apartment looking in. The window is open.

9 Q. Going back to A-11. Does it show on
10 the photo how the window is open or where it's
11 open?

12 A. Yes, ma'am. You can see the edge of
13 the sliding window that is slid open. This is
14 the edge. You would slide this window in this
15 direction, it would close the window.

16 Q. So, looking at the photograph, it
17 would be on the right side that the window is
18 open; is that correct?

19 A. Yes, ma'am.

20 Q. What does A-13 show?

21 A. A-13 is some blood on the shower wall.

22 Q. And A-14, is that just a close-up of A-13?

23 A. That is correct.

24 Q. What does A-15 show?

25 A. Again that's another area of the

1 shower above the faucets. Blood on the shower
2 wall.

3 Q. Is A-16 just a closer up version of
4 that blood?

5 A. Yes, it is.

6 Q. What does A-17 show?

7 A. Photograph of the sock in the closet
8 where the furnace was. The furnace had been
9 removed from the apartment.

10 Q. When you picked up the sock, how did
11 it feel?

12 A. It was stiff.

13 Q. A-18, what does that show?

14 A. A-18 is the blood on the wall and also
15 the piece of pipe insulation on the floor.

16 Q. Officer Hilleman, when you got to the
17 apartment in the early morning hours of October
18 12, was the electricity working?

19 A. No, ma'am, it was not.

20 Q. Were you able to see in the apartment
21 without electricity?

22 A. The windows were open, we had the
23 natural light. It was not the best light in the
24 world, but we could see.

25 Q. Was the water working?

1 A. Yes, it was.

2 Q. Can you tell us was this a ground
3 floor apartment?

4 A. Yes, ma'am, it was.

5 MS. CONNORS: I have no further
6 questions. I ask that A-10 through A-18 be
7 passed to the jury.

8 THE COURT: All right.

9

10 CROSS EXAMINATION

11 BY MR. STAFFORD:

12 Q. Mr. Rhoades was not with you during
13 this collection; was he?

14 A. No, sir.

15 Q. Just you and Sergeant Maxey?

16 A. That is correct.

17 MR. STAFFORD: I have no questions.

18 THE COURT: Anything else?

19 MS. CONNORS: No, Your Honor.

20 THE COURT: You may stand down.

21 Call your next.

22 MS. DAVIES: State calls Monica

23 Thompson.

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MONICA THOMPSON

was called as a witness by the State and, having
been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. DAVIES:

Q. Would you, please, tell us your name?

A. Monica Thompson.

Q. Where are you employed?

A. By the City of Houston police
department crime lab.

Q. What is your position there?

A. I am a criminalist.

Q. What does that mean to be a
criminalist?

A. I analyze evidence from rapes and
homicides for DNA analysis.

Q. Tell us a little bit about your
educational background and your professional
background that qualifies you for your position.

A. I have a bachelor's and master's
degree in biology from Sam Houston State
University. I have had two and a half years
training at the HPD crime lab. I have trained
for six months at Baylor College of Medicine. I
have had very intensive, month-long training at

1 the FBI Academy.

2 Q. Who is your supervisor?

3 A. James Bolding.

4 Q. Do you work specifically in the area
5 of DNA analysis?

6 A. Yes, I do.

7 Q. At this time does the Houston Police
8 Department laboratory have the capacity to do
9 DNA analysis?

10 A. Yes, we do.

11 Q. Back in September of 1991, did they
12 have that capacity?

13 A. In September of 1991, we were not
14 fully equipped. We were not taking cases. We
15 were analyzing cases to see if they did have DNA
16 in them to go to the next step, but we were not
17 completing that analysis. We were then sending
18 them to another laboratory to complete the
19 analysis.

20 Q. So, has your training -- have you been
21 trained to do that analysis?

22 A. Yes, I have.

23 Q. What is the first step, if you get a
24 blood sample in the laboratory, what is the
25 first step in order to start that process of DNA?

1 A. After receiving a sample of evidence,
2 we extract the sample to see if DNA is present.
3 We will take that evidence and take it through
4 procedures to remove the cells from the item.
5 After we remove the cells from the item we then
6 burst open the cells to release the DNA. After
7 the DNA is released and it's cleaned up to
8 remove it from any other particles that may be
9 in the solution, we then run a test to check the
10 quality and the quantity of the DNA present.

11 Q. What do the initials DNA stand for?

12 A. DNA stands for Deoxyribonucleic Acid.

13 Q. When you are through testifying, will
14 you wait for a minute and spell that for the
15 court reporter?

16 A. Yes, I will.

17 Q. Hopefully she won't have a nervous
18 breakdown before the day is over.

19 Ms. Thompson, what you have described
20 as far as extracting DNA, when you make that
21 extraction, in laymen's terms can you describe
22 for us what form, how it appears?

23 A. When we extract the DNA and we do the
24 test for the quality and quantity to see if we
25 can move on to the next step, we are looking for

1 the DNA to be in a long stranded form and not to
2 be broken into pieces. And if it's in this long
3 stranded form, we can go on to the next step.

4 Q. All right now, back in September of
5 1991, did Jim Bolding ask you to do an
6 extraction of DNA on some evidence in this case?

7 A. Yes, he did.

8 Q. And did you follow through and do that?

9 A. Yes, I did.

10 Q. Other than extracting DNA from the
11 sample that you were given by Mr. Bolding, did
12 you go on to the next step of DNA analysis?

13 A. No. After extraction and looking at
14 the quantity and quality of the DNA, that was
15 where I ended. I then gave the evidence back to
16 Jim Bolding, who had it sent to another lab for
17 testing.

18 Q. He had it sent to another laboratory?

19 A. Yes.

20 Q. At that point, your laboratory was not
21 fully operational; is that correct?

22 A. That is correct.

23 Q. How long does it take to get your
24 laboratory on line?

25 A. We started taking cases the latter

1 part of February. It took us about almost two
2 years to come up to line.

3 Q. Let me show you some -- first let me
4 show you these two in the containers marked
5 State's Exhibits 36 and 37. Are there any
6 markings on those vials of blood, State's
7 Exhibits 36 and 37, that enable you to recognize
8 them?

9 A. Yes, there are.

10 Q. What markings are those?

11 A. The lab number, L91-9937 and my
12 initials.

13 Q. All right. The lab number is what?

14 A. L91-9937.

15 Q. Now, can you explain to the jury how
16 you keep track of your evidence in the laboratory?
17 Do you have identifiers that you use for all the
18 evidence?

19 A. Yes. When a piece of evidence is
20 brought into the crime lab, it is logged into a
21 case book that is in an area called centralized
22 evidence receiving, and all evidence goes
23 through the area. We log it into the case book
24 along with the HPD incident number and
25 description of the evidence.

1 Q. Now, who submitted this evidence to
2 your laboratory? Do you know from your records?

3 A. The item marked State's Exhibit No. 36
4 was submitted by Sergeant Kennedy.

5 Q. And State's Exhibit 37?

6 A. It was -- I received it from James
7 Bolding. It was originally submitted by
8 Kennedy.

9 Q. All right. And when Mr. Bolding gave
10 you that sample, what were your instructions?

11 A. My instructions were to extract the
12 DNA to determine the quality and quantity present.

13 Q. Did you make a determination of the
14 quality and the quantity?

15 A. Yes, I did.

16 Q. What was your determination?

17 A. That high molecular weight DNA was
18 present, which means that it was in a long
19 stranded form and could go on to the next step.

20 Q. Were you given any other samples by
21 Mr. Bolding to extract DNA?

22 A. Yes, I was.

23 Q. What was that?

24 A. I was given a sample from the kitchen
25 floor and a sample from a kitchen drawer.

1 Q. Were you also given another blood sample?

2 A. I was given a blood sample from
3 medical-legal 91-6153.

4 Q. When you say medical-legal, what
5 number is that?

6 A. That is the number that the Harris
7 County Medical Examiner's Office gives to their
8 case.

9 Q. The autopsy number?

10 A. Right, that is the autopsy.

11 Q. The other blood sample that you had
12 was from what autopsy number?

13 A. Medical-legal number 91-6153.

14 Q. Basically, when you do these things in
15 the lab, you don't know the person, you just
16 know a number to identify the sample?

17 A. In this case, I was only given a
18 number. Sometimes I am given a name and a
19 number. In this case, I was only given a
20 number.

21 Q. So, the sample from the medical
22 examiner's office from autopsy 916153, were you
23 able to extract DNA from that sample?

24 A. Yes, I was.

25 Q. And, likewise, the sample that Mr.

1 Bolding gave you from you said the kitchen floor
2 and the kitchen drawer?

3 A. Yes.

4 Q. All of those items, were they given
5 the same lab number, your 91-9937?

6 A. Yes, they were.

7 Q. Were they identified by that number
8 when they came to you?

9 A. Yes, they were.

10 Q. Were you able to extract DNA from the
11 blood samples from the kitchen floor and the
12 kitchen drawer?

13 A. Yes, I was.

14 Q. Did you make an assessment of the
15 quality and quantity in each of those
16 instances? Did you form an opinion as to
17 whether they were sufficient to pass on for DNA
18 testing and comparison?

19 A. Yes, I did. I determined that high
20 molecular weight DNA was present and that these
21 samples could go on to the next step.

22 Q. You carried some evidence into the
23 courtroom with you today. Let me show you what
24 we have marked for identification purposes.
25 First there is this large, plastic envelope

1 marked 105. Inside that, there were four
2 smaller plastic envelopes. And I have marked
3 those 101, 102, 103 and 104 for identification
4 purposes. Can you tell us where you got these
5 items to bring to court today?

6 A. I took control of those items from
7 Kristy Kim.

8 Q. Who is Kristy Kim?

9 A. Kristy Kim is a criminalist at the HPD
10 crime lab.

11 Q. She works with you?

12 A. Yes, she does.

13 Q. Is she also supervised by Mr. Bolding?

14 A. Yes, she is.

15 Q. Okay. Have you had a chance to look
16 at these smaller envelopes 101 through 104 and
17 their contents?

18 A. Yes, I have.

19 Q. Do you recognize those envelopes and
20 their contents?

21 A. Yes, I do.

22 Q. Are there any identifying marks -- in
23 fact, what is contained in each of the envelopes
24 it appears to be two items in each of these
25 envelopes 101 through 104. Can you tell us

1 just physically what those two items are in each
2 envelope?

3 A. They are vials containing DNA
4 extracted samples in this case.

5 Q. And who actually prepared these vials
6 in each instance, these vials of DNA?

7 A. I did.

8 Q. How were you able to recognize that
9 and tell us that?

10 A. By the lab number and my initials.

11 Q. Can you point out for me where your
12 initials and the lab number appear?

13 A. Lab number, and then my initials are
14 at the end.

15 Q. Your initials MT and the lab number
16 what?

17 A. L91-9937.

18 Q. And do your initials and the lab
19 number appear on each and every one of the
20 vials, namely, two vials in each of the four
21 envelopes? Would you check and be sure for us?

22 A. Yes, they do.

23 Q. After you extracted DNA from the
24 samples you were given and placed them in these
25 vials that are contained in the envelopes as you

1 have described them, what did you do with the vials?

2 A. I returned the vials to James Bolding.

3 Q. At that point, were they in a
4 condition to be passed on for DNA analysis?

5 A. Yes, they were.

6 Q. Did you actually carry them to the DNA
7 lab yourself?

8 A. No, I did not.

9 Q. Did you do any other part of the
10 testing or DNA comparisons on these samples?

11 A. No, I did not.

12 MS. DAVIES: I pass the witness.

13 MR. STAFFORD: We have no questions.

14 THE COURT: You may stand down. Any
15 objection to her being excused subject to being
16 on call?

17 MS. DAVIES: No objection from the
18 State.

19 MR. STAFFORD: No objection.

20 THE COURT: Call your next, please.

21 MS. DAVIES: Kristy Kim.
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1 KRISTY KIM

2 was called as a witness by the State and, having
3 been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. DAVIES:

6 Q. Please state your name.

7 A. Kristy Kim.

8 Q. How are you employed, Ms. Kim?

9 A. I am employed by the Houston Police
10 Department crime laboratory as a chemist.

11 Q. What is your particular area of
12 responsibility at the laboratory?

13 A. I am assigned in the serology section
14 of the crime laboratory, where my duties include
15 analyzing any body fluids from a crime scene or
16 in the form of a rape kit, identify the body
17 fluid and compare them with a known complainant
18 and defendant, and I also make crime scenes.

19 Q. Who is your supervisor?

20 A. James R. Bolding.

21 Q. Did you actually do any of the testing
22 or analysis related to DNA yourself in this case?

23 A. No, ma'am.

24 Q. Did you handle some of the evidence
25 when it was in the laboratory?

1 A. Yes, I did.

2 Q. Specifically I want to call your
3 attention to -- well, first let's look at the
4 blood vials that are contained in State's
5 Exhibits 36 and 37. Did you do any of the
6 testing or DNA extractions on those?

7 A. No, ma'am.

8 Q. Did you receive them in the
9 laboratory?

10 A. Yes, I did.

11 Q. Once they were received in the
12 laboratory, did you process either one of these
13 items at all, specifically I am talking about
14 the blood contained in the vials in State's
15 Exhibits 36 and 37.

16 A. No, ma'am.

17 Q. Let me call your attention to the
18 envelope, the large envelope, State's Exhibit
19 105, and inside it are four smaller ones marked
20 State's Exhibits 101, 102, 103, 104. Have you
21 seen those items before?

22 A. Yes, I have.

23 Q. Did you bring them to court today?

24 A. Yes, I did.

25 Q. In fact, did you turn those over to

1 your co-worker Ms. Thompson just before she came
2 in to testify?

3 A. Yes, I did.

4 Q. Where had you gotten them prior to
5 giving them to Ms. Thompson?

6 A. I had received them from Holly Hammond
7 from Kleberg DNA Laboratory and Medical Center.

8 Q. Kleberg DNA Laboratory?

9 A. Yes, ma'am.

10 Q. That was from Holly Hammond?

11 A. Yes, ma'am.

12 Q. Did you get those at my request before
13 coming to court?

14 A. That is correct.

15 Q. Now, prior to getting them from Ms.
16 Hammond at the Kleberg Laboratory today, had you
17 at some point delivered these items to Ms.
18 Hammond at the Kleberg Laboratory?

19 A. That is correct.

20 Q. Do you recall when that was?

21 A. November 8, 1991.

22 Q. Can you look at these envelopes, the
23 smaller ones, State's Exhibits 101, 102, 103 and
24 104, and tell me whether you delivered
25 personally the eight vials contained in those

1 four envelopes to the Kleberg Laboratory, Holly
2 Hammond for testing?

3 A. Yes, I did deliver these personally to
4 Holly Hammond of the Kleberg Laboratory.

5 Q. And where had you received them for
6 delivering to Ms. Hammond?

7 A. Received them from my supervisor,
8 James R. Bolding.

9 Q. During the time that they were in your
10 care, custody and control to transport to the
11 laboratory, did you take care to see that
12 nothing happened to these to change the
13 contents?

14 A. That is correct.

15 MS. DAVIES: Pass the witness.

16 CROSS EXAMINATION

17 BY MR. STAFFORD:

18 Q. Ma'am, you stated that you also make
19 crime scenes?

20 A. Yes, I do.

21 Q. Is one of your areas of specialty as
22 Mr. Bolding's area of specialty is blood
23 splatter, is it not?

24 A. Yes, sir.

25 Q. And do you know of your own personal

1 knowledge how many samples that were submitted
2 to your department for analysis in this case?

3 A. How many samples?

4 Q. Yes.

5 A. I have no idea. This is not my case.

6 Q. Okay. But that is an area in your
7 department that y'all are specialized in, to go
8 out to the scene and collect that kind of
9 evidence; is it not?

10 A. Not all the scenes we go to, but some
11 scenes we do go out and collect the samples.

12 Q. Could you tell the jury, taking an
13 actual sample of blood splatter, wouldn't that
14 give you a more accurate reading than trying to
15 view a photograph and come up with an opinion?

16 A. Yes, sir.

17 MR. STAFFORD: I have no other
18 questions.
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REDIRECT EXAMINATION

BY MS. DAVIES:

Q. Is that true if your purpose is to identify the source of the blood? Let me reword my question. I am not sure what I am asking. If the objective is to identify the source of the blood, would you take a blood sample or would you look at the spatter?

A. --.

Q. That wasn't artfully put.

A. You have to rephrase the question. I don't understand where you are coming from.

Q. If you are attempting to type the blood, would you have to take a sample?

A. Of course.

Q. If you wanted to do DNA testing to identify the source of the blood, would that require a sample from the scene?

A. Yes, ma'am.

Q. A photograph wouldn't do that; would it?

A. No.

MS. DAVIES: Pass the witness.

RECROSS EXAMINATION

BY MR. STAFFORD:

Q. Ma'am, my point is: If you have a speck of blood here or a speck of blood on the wall and you are trying to figure out the angle of projection and where a body was situated from the projection, being able to be there to physically look at it and take a scraping so you can take it back and analyze or take a ruler and measure, you being on the scene is much better and more accurate than taking a picture from somebody that you have no control over because you do not know what position he was in, you don't know, and then trying to take that picture and make a determination of angles and direction and things of that nature?

A. Right. It will be hard to see the angle of the blood spatters or things of that nature, it will be hard to determine that by just looking at the picture.

MR. STAFFORD: I have no other questions.

MS. DAVIES: Pass the witness.
I will offer.

THE COURT: May she be excused?

1 MS. DAVIES: She may be excused.

2 Actually, before she's excused, I want to offer
3 the contents of the envelope, State's Exhibits
4 36, 37, and 101 through 104.

5 THE COURT: Everything except 105?

6 MS. DAVIES: That is correct. I won't
7 offer that into evidence.

8 THE COURT: Do you understand what is
9 being offered? State's Exhibits 36, 37, 101
10 through 104.

11 MS. DAVIES: The contents of 36 and
12 37. The small envelopes, each containing two
13 plastic vials, 101 through 104.

14 MR. STAFFORD: No objection.

15 THE COURT: State's Exhibits 36, 37,
16 101, 102, 103 and 104 are admitted.

17 You may stand down.

18 Call your next.

19 MS. DAVIES: Harold Jordan.

20 THE COURT: Approach the bench,
21 please.

22

23

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25

1 HAROLD JORDON

2 was called as a witness by the State and, having
3 been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. DAVIES:

6 Q. Would you state your name to the jury,
7 please?

8 A. Harold C. Jordan.

9 Q. How are you employed?

10 A. As a police officer for the City of
11 Houston.

12 Q. What is your assignment?

13 A. Currently I am assigned to the
14 homicide division as a crime scene investigator.

15 Q. Can you tell us just very briefly what
16 your responsibility is as a crime scene
17 investigator?

18 A. Yes, ma'am. Primarily my duties are
19 to go out to major scenes and take photographs,
20 collect items pertinent to the case, draw scene
21 sketches when needed, do morgue follow-ups,
22 fingerprints.

23 Q. Are you the first person who took the
24 photographs and the video tape pictures in
25 connection with the scene at 624 Keith?

1 A. Yes.

2 Q. On September 13, 1991?

3 A. Yes, ma'am.

4 Q. Did you have some assistance from the
5 crime lab and latent print laboratory at that
6 scene?

7 A. Yes, ma'am, I did.

8 Q. You mentioned doing the morgue
9 follow-up. What do you mean by doing that?
10 What is the follow-up?

11 A. After we clear the scenes on cases
12 when people have been killed, one of our duties
13 is to go out to the Harris County morgue and
14 obtain fingerprints, palm prints, close-up
15 photographs of wounds, collect other items
16 pertinent to the case while the body is being
17 posted.

18 Q. While it's being posted?

19 A. Yes, ma'am, post-mortem.

20 Q. When you go to the laboratory to do
21 follow-up, do you determine whether the morgue
22 has assigned a number to each body that an
23 autopsy is going to be performed on?

24 A. Yes, ma'am.

25 Q. And you had been at the scene, so you

1 had seen the bodies of Charles and Brad Allen
2 there at the house; did you not?

3 A. Yes, ma'am.

4 Q. When you went to the morgue, can you
5 tell us whether an autopsy number had been
6 assigned to each of them?

7 A. Yes, ma'am, they had.

8 Q. Do you recall what those numbers were?

9 A. I would have to look at my notes in
10 order to.

11 Q. Do you have your report?

12 A. I have a copy of my supplement here.

13 Q. Would that refresh your memory?

14 A. According to my notes, Charles Allen
15 was assigned case 91-6153. And Bradley was
16 assigned 91-6154.

17 Q. Now, before the autopsy was performed,
18 did you take some additional photographs there
19 at the morgue?

20 A. Yes, ma'am, I did.

21 Q. I have marked some photographs for
22 identification purposes as State's Exhibits 89
23 through 94. Can you tell me whether 89 through
24 94, without displaying those to the jury,
25 please, are those accurate depictions of Charles

1 Allen's body prior to any autopsy being
2 performed as you viewed it at the morgue?

3 A. Yes, ma'am, they are.

4 Q. Did you go there immediately after
5 leaving the scene at 624 Keith on the 13th of
6 September?

7 A. I think that the homicide sergeant,
8 Sergeant Kennedy and I stopped for a glass of
9 iced tea and went to the M. E.'s office from
10 there.

11 Q. So, did much time elapse before you
12 went?

13 A. No, ma'am.

14 Q. All right. Let me show you some
15 photographs that I have marked as State's
16 Exhibits 95 through one hundred. I want you to
17 tell me whether those fairly and accurately
18 depict the body of Brad Allen as you saw it
19 there at the morgue prior to any autopsy being
20 performed.

21 A. Yes, ma'am, they do.

22 MS. DAVIES: Pass the witness.
23
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25

1 CROSS EXAMINATION

2 BY MS. KAISER:

3 Q. Were you the only officer, the only
4 agency that took photographs out at the crime
5 scene on Keith Street?

6 A. Yes. The medical examiner's office
7 sent out an investigator who also took
8 photographs.

9 Q. They took photos at the scene?

10 A. Yes, ma'am.

11 Q. Did you write an offense report in
12 relation to this scene that you made?

13 A. Yes, ma'am, I did.

14 MS. DAVIES: May the record reflect I
15 have a copy of Officer Jordan's supplement I am
16 tendering to defense counsel.

17 THE COURT: All right.

18 BY MS. KAISER:

19 Q. Were you the only CSU officer on the
20 scene?

21 A. Yes, ma'am, I was.

22 Q. So from the Houston Police Department
23 you were the only one taking photographs or
24 doing video?

25 A. Yes, ma'am, that is correct.

1 Q. When you take photographs and make
2 videos, do you leave everything on the scene as
3 it is?

4 A. --.

5 Q. You leave it as is. You don't change
6 anything to make for a better picture?

7 A. No, ma'am.

8 Q. Does that include the lighting?

9 A. That is correct, ma'am. I used a
10 flash.

11 Q. So, in areas that are dark in the
12 house, you might have used a flash attachment to
13 light that area for the photograph. You
14 wouldn't have turned on a light in the room to
15 light up that room for the picture, you would
16 have used your flash attachment?

17 A. That is correct.

18 Q. So if any of your pictures project a
19 lighted room or an unlighted room, that is
20 exactly the way you found those rooms?

21 A. Yes, ma'am, I take photographs of the
22 scene intact.

23 Q. That applies to the video as well?

24 A. I also used a video light on the video
25 camera. But everything else was as it was when

1 I arrived on the scene.

2 Q. How soon did you arrive on the scene?

3 A. I would say within thirty minutes of
4 the time that the victims were found.

5 Q. So approximately 8:30 to 9:00?

6 A. Yes, ma'am, roughly I would say that.

7 Q. Did it appear to you that the crime
8 scene had been kept intact?

9 A. Yes, ma'am. There were several
10 officers inside the house, and from the time
11 that I got there the scene did remain intact. I
12 saw that nothing else was moved or lighting
13 turned on or whatever.

14 Q. How did you enter the house to take
15 the photographs?

16 A. Front door.

17 Q. That door was open and unlocked when
18 you got there?

19 A. Yes, ma'am. There were officers
20 inside the house when I arrived on the scene.

21 MS. KAISER: Pass the witness.

22 MS. DAVIES: May Officer Jordan be
23 excused subject to recall?

24 MR. STAFFORD: No objection.

25 THE COURT: You are to remain on

1 call.

2 THE COURT: Ladies and gentlemen, we

3 are going to recess for the day. All the

4 previous admonitions are still in effect.

5 Again, don't watch any of the media casts. Turn

6 the station, turn it down. Don't read it if

7 it's in the newspaper. I noticed that the press

8 hasn't been here. I noticed one of the TV

9 stations did make it yesterday, did filter in

10 sometime this morning, I don't know what may be

11 reported. You haven't missed anything today.

12 I know you were out of the courtroom a couple of

13 times yesterday, but you haven't missed anything

14 today. You don't need to watch any of that.

15 Don't allow anybody to talk to you about the

16 case. If anybody does attempt to talk to you

17 about it, bring it to our attention immediately.

18 Don't make any drive-bys, don't make any kind of

19 independent investigation. We haven't started

20 before 10:30 yet, so 10:30 tomorrow morning in

21 the hallway outside. Continue to wear your

22 badges at all times. You haven't asked yet,

23 but, yes, you may bring your own coffee makers

24 and cookies because I am not sure what the

25 schedule is going to be. If you want to put

1 something in the refrigerator, we can do that
2 for you, too. You may bring reading material
3 except for the newspapers if you want to bring
4 it with you tomorrow. Do you have any
5 questions at this time?

6 If there is nothing else, please go in
7 a group to the jury room.

8 (End of day)
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